

EXHIBIT R

13 The deposition of DARYL DEWHURST was taken by the
14 Plaintiff on Friday, March 13, 2020, at 28400
15 Northwestern Highway, 2nd Floor, Southfield, Michigan,
16 at 10:16 a.m.

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25 Certified Stenographic R

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1 APPEARANCES:	1	
2 WESTBROOK LAW, PLLC	2	TABLE OF CONTENTS
3 Theodore J. Westbrook	3	
4 6140 28th Street SE	4	WITNESS PAGE
5 Suite 115	5	DARYL DEWHURST
6 Grand Rapids, Michigan 49546	6	Examination by Mr. Westbrook 5
7 twestbrook@westbrook-law.net	7	
8 616.888.6111	8	
9 Appearing on behalf of the Plaintiff.	9	
10	10	EXHIBITS (Attached)
11 MADDIN HAUSER ROTH & HELLER, PC	11	Exhibit 1 notice of deposition 11
12 Deborah Lapin	12	Exhibit 2 mortgage 13
13 28400 Northwestern Highway	13	Exhibit 3 compromise settlement 27
14 2nd Floor	14	and release agreement
15 Southfield, Michigan 48034-8348	15	Exhibit 4 judgment of divorce 31
16 248.208.0709	16	Exhibit 5 loan modification agreement 35
17 dlapin@maddinhauser.com	17	Exhibit 6 case caption 42
18 Appearing on behalf of the Defendants.	18	Macholtz versus CitiMortgage, Inc.
19	19	Exhibit 7 two documents 45
20	20	Exhibit 8 computer printout 52
21	21	Exhibit 9 documents 69
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23	23	pending foreclosure
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1 EXHIBITS (continued)	1	Southfield, Michigan
2 Exhibit 11 publication notices	2	Friday, March 13, 2020
3 Exhibit 12 6/15/18 letter	3	10:16 a.m.
4 Exhibit 13 7/25/18 letter	4	
5 Exhibit 14 4/24/18 letter	5	
6 Exhibit 15 10/8/18 letter	6	
7 Exhibit 16 fax cover sheet	7	COURT REPORTER: Do you swear the
8 Exhibit 17 defendants' supplemental	8	testimony you're about to give will be the truth,
9 responses to plaintiff's	9	the whole truth, and nothing but the truth?
10 request for admission	10	THE WITNESS: I do.
11	11	D A R Y L D E W H U R S T ,
12	12	after having been first duly sworn to tell the
13	13	truth, the whole truth, and nothing but the
14	14	truth, was examined and testified follows:
15	15	EXAMINATION
16	16	BY MR. WESTBROOK:
17	17	Q. Good morning, Mr. Dewhurst.
18	18	A. Good morning.
19	19	Q. I'm saying that correctly, aren't I?
20	20	A. Yes.
21	21	Q. Thanks for being here. I know under the
22	22	circumstances it isn't the easiest trip to make.
23	23	A. Right. My pleasure.
24	24	Q. So you're employed by Carrington Mortgage
25	25	Services; is that correct?

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1	A. Correct.	1	question and answer format of a deposition,
2	MS. LAPIN: Ted, can I just put a quick	2	correct?
3	objection? I just want to indicate that I had	3	A. Sure.
4	issued those objections to the dep notice, and so	4	Q. You've had a chance to meet with your counsel
5	I'm just repeating and incorporating them herein,	5	about what a deposition involves?
6	and that's it.	6	One of the ground rules that I'm going
7	MR. WESTBROOK: That's fine. I	7	to probably have to get on your case about from
8	received those objections.	8	time to time, and don't take it personally, is
9	MS. LAPIN: Thanks.	9	waiting until I'm done asking a question before
10	BY MR. WESTBROOK:	10	you start your answer. If we're talking at the
11	Q. What is your job title?	11	same time, it's really difficult for the court
12	A. Case manager.	12	reporter to get down everything, and having to
13	Q. What does the job title case manager entail?	13	look at a transcript afterwards and determine
14	What are your ordinary responsibilities?	14	whether an answer was to the question being asked
15	A. Basically I review contracts, business records	15	or not is difficult if more than one person is
16	and procedures, and attend court trials,	16	talking at a time.
17	settlements, mediations, depositions such as	17	So a real ordinary conversational thing
18	this.	18	that we do is anticipate where the question is
19	Q. I assume you've had your deposition taken before?	19	going and answer before the speaker is done.
20	A. No.	20	I'll ask that you try not to do that. If you do,
21	Q. This is your first one?	21	I'll just issue gentle reminders, and we'll go on
22	A. It is.	22	our way, okay?
23	Q. Well, I should go over the general parameters	23	A. That's fine.
24	then.	24	Q. If there's a question that you don't understand,
25	I'm sure you're familiar with the	25	that's unclear to you, I'd ask that you point
	Page 8		Page 9
1	that out to me and ask me to clarify. Is that	1	what I mean if I say CMS, right?
2	fair?	2	A. Yes.
3	A. Yes.	3	Q. Who is your direct supervisor at CMS?
4	Q. Otherwise, I'll assume that you've understood the	4	A. Clayton Gordon.
5	question, okay?	5	Q. What is Mr. Gordon's title?
6	A. Yes.	6	A. Things have changed recently at CMS, Carrington.
7	Q. Have you ever testified at a trial before?	7	I think his title might be mediation manager.
8	A. Yes.	8	Q. Do you know how many direct reports he has?
9	Q. How many trials have you testified at?	9	A. No.
10	A. It's impossible to put a number. Many trials.	10	Q. Is it fair to say that as part of your job
11	Q. More than ten?	11	duties, you've been assigned to monitor
12	A. Yes.	12	litigation and act as a liaison between CMS and
13	Q. Have you testified at a trial in the state of	13	its outside counsel?
14	Michigan before?	14	MS. LAPIN: I'm just going to object to
15	A. No.	15	the form of the question. You can answer.
16	Q. Do you have a particular territory or do you go	16	THE WITNESS: Yes.
17	all around the country?	17	BY MR. WESTBROOK:
18	A. Essentially, all around the country. I can't say	18	Q. Have you been assigned to be a representative of
19	that I've been to every state, but I've been to a	19	CMS in connection with this case that we're here
20	lot of them.	20	for?
21	Q. Fair enough.	21	A. Yes.
22	Do you have a direct supervisor at	22	Q. What does that assignment involve?
23	Carrington?	23	A. I reviewed many documents in relation to the
24	A. Yes.	24	notice of deposition provided in anticipation of
25	Q. I may refer to Carrington as CMS. You'll know	25	today's deposition.

	Page 10		Page 11		
1	Q. When did you receive that assignment to be CMS's representative in this case?	1	A. They were provided electronically and also in physical form.		
2	A. I would say -- I don't know the exact date, but it would be probably three or four weeks ago.	3	Q. Were they provided to you by CMS's counsel or someone else?		
5	Q. Did you have any involvement in CMS's efforts to produce documents in this case?	5	A. They were provided by CMS counsel.		
7	A. No.	6	Q. Inside counsel or outside counsel that's here with you today?		
8	Q. Do you know who did?	8	A. Counsel that's here with me today.		
9	A. No.	9	Q. Did you review any documents that were not provided by your counsel that's here with you today in preparation for today?		
10	Q. Do you have an understanding of what this case Macholtz versus Carrington Mortgage Services is about?	10	A. I did receive some documents internally within CMS. I cannot remember which of those documents they were, but I did receive some documents internally.		
13	A. Yes.	13	14	Q. What's your understanding?	A. All right. Do you know if all the documents that you reviewed to prepare for today's deposition have been produced in this litigation?
15	A. My understanding loosely is that the property went to foreclosure and the borrower is contesting that.	15	16	Q. As far as I'm aware.	A. As far as I'm aware, they were?
18	Q. You said you reviewed some documents after you received the assignment to be Carrington's representative here, right?	18	19	A. Yes.	(Exhibit 1 marked.)
21	A. Yes.	21	22	Q. How many documents did you review?	BY MR. WESTBROOK:
23	A. There was a lot. There was literally hundreds of pages of documents.	23	24	Q. I'm going to hand you a document I just marked as Exhibit 1. This document is entitled, "Notice of	
25	Q. How were they provided to you? In what form?	25			
	Page 12		Page 13		
1	Rule 30(b)(6) Deposition of Carrington Mortgage Services, LLC." Do you see that title there on the first page?	1	Q. Mr. Gordon has some experience, some guidance to impart about depositions generally?		
4	A. Yes.	2	A. Yes.		
5	Q. I'll represent to you that this is the notice that is the reason why we're here today. Is this a document you reviewed before?	3	Q. Anything specific to this particular case?		
8	A. Yes.	5	A. Not that I recall, no.		
9	Q. And are you prepared to testify as to CMS's knowledge regarding the noticed topics?	6	Q. You can put Exhibit 1 aside for the moment. Do you recall if the documents that you reviewed in preparation for today included a note and mortgage from Anthony and Dena Macholtz around the 2005 time frame?		
11	A. Yes.	7	A. Yes. From memory, the documents did contain those.		
12	Q. What did you do to prepare to testify apart from reviewing the documents as we just talked about?	13	Q. From reviewing those documents, you understand CMS wasn't the original servicer of the loan, correct?		
14	A. Again, I reviewed the documents as previously described and consulted with counsel who is present today.	14	A. That's correct.		
17	Q. Did you meet with any other CMS employees to prepare to provide testimony today?	17	Q. Do you recall who the original servicer was?		
19	A. I did speak with Clayton Gordon. Actually physically meeting with someone, no.	18	A. No.		
21	Q. What did you speak with Mr. Gordon about?	19	MR. WESTBROOK: I'm not going to make this a memory test. I've got documents to show you that I think will help refresh your memory.		
22	A. Just loosely preparation for depositions as this is my first deposition.	20	(Exhibit 2 marked.)		
24	Q. Understandable.	21	BY MR. WESTBROOK:		
25	A. Yes.	22	Q. I'll hand you what we've marked Exhibit 2. Exhibit 2 is entitled, "Mortgage." You see that		

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1	title at the top of the first page there?	1	case, right?
2	A. Yes, I do.	2	A. No.
3	Q. I'll ask you to ignore the header there, which is part of the court filing header that's on each page, because that wasn't part of the original document. But apart from that, we have thirteen pages and on the last page we have signatures by Anthony A. Macholtz and Dena G. Macholtz. Do you see that?	4	Q. Do you know generally when CMS became the servicer of the loan that's connected with this mortgage?
10	A. Yes, I do.	6	A. I can't recall off the top of my head.
11	Q. Appears looking at the first page that the mortgage is in favor of MERS, Mortgage Electronic Registration Systems, Inc., as nominee of lender Home Loan USA Corporation. Do you see that on the first page?	7	Q. If I told you information I received reflects that CMS started servicing loans sometime around January of 2017, would that be consistent with your memory?
16	A. Yes, I do.	11	A. Yes. That jogs my memory, yes.
17	Q. As far as you can tell, is this the mortgage that's at issue in this case?	12	Q. Also, would it be consistent with your memory that the predecessor servicer to CMS was CitiMortgage?
19	A. As far as I can tell, yes.	15	A. Yes.
20	Q. I understand you wouldn't have memorized every word of the document.	16	Q. Now, did CMS receive information from CitiMortgage when CMS became the servicer?
22	A. No.	17	A. Yes.
23	Q. That would be unreasonable for me to assume that you had, but you don't have any reason to believe that there's some other mortgage at issue in this	19	Q. Is there a standard set of information CMS typically receives from a predecessor servicer when CMS becomes the new servicer?
25		22	A. We would receive the service and history documents in relation to the loan being transferred.
		25	Q. How is that information transmitted to CMS from
	Page 16		Page 17
1	the predecessor?	1	Q. The amount past due?
2	A. That would --	2	A. Yes.
3	MS. LAPIN: In general or this particular one?	3	Q. The escrow shortage amount, if there was any?
5	MR. WESTBROOK: I suppose I'll start with in general.	4	A. Yes.
7	THE WITNESS: Generally, we would receive notification of a transfer of loans and we would receive the loan file if it was part of a series of loans. We'd go through a series of checks and balances to make sure the information is correct from the transmitted party to CMS.	5	Q. The periodic payment amount?
13	If at any time there's a discrepancy in the information, we would reject the file and we would also have a series of conference calls and e-mails with the transferring organization to verify that the information is correct and iron out any problems.	6	A. Correct.
19	BY MR. WESTBROOK:	7	Q. The interest rate?
20	Q. So would the information -- with respect to this particular file coming from CitiMortgage to CMS, information that came over from CitiMortgage, would that have included the principal amount of the loan?	8	A. Yes.
25	A. Yes.	9	Q. And I suppose the term of the loan, the length?
		10	A. Yes.
		11	Q. I think you may have covered this, but I want to make sure I'm clear on it. Apart from the history, the account history for the loan that would show payments and disbursements and things like that, other documents would have come to CMS from CitiMortgage also, right?
		17	A. Correct.
		18	Q. The note and mortgage, for example, would those come over from CMS -- or from CitiMortgage, I apologize?
		19	A. Sorry. Yes.
		22	Q. The history of account statements?
		23	A. Yes.
		24	Q. By the way, do they come over -- did they come over from CitiMortgage to CMS in electronic form

	Page 18		Page 19
1	or paper?	1	A. Yes, to the best of my knowledge.
2	A. I believe they would have come across in both formats to the best of my knowledge.	2	Q. Do you know if any litigation judgments came through from CitiMortgage to CMS on this particular Macholtz loan file?
4	Q. What about communications, like letters, from CitiMortgage to the borrowers, would those have come over from CitiMortgage to CMS on this file?	5	A. I'm unsure.
7	A. Again, to the best of my knowledge, yes.	6	Q. Do you know if any bankruptcy court orders came through from CitiMortgage to CMS on the Macholtz loan file?
8	Q. Would any court orders involving the loan have come over from CitiMortgage to CMS?	9	A. I'm unsure.
10	A. To the best of my knowledge.	10	Q. You alluded to this just a minute ago. I want to get into it. There's a procedure at CMS for reviewing information that comes to CMS from a predecessor servicer like CitiMortgage, right?
11	Q. Do you know if a document like a judgment of divorce with a property settlement came over from CitiMortgage to CMS?	14	A. Correct.
14	A. Possibly. I can't recall seeing it myself, but possibly.	15	Q. And I think you testified that that procedure involves reviewing what comes through in the file to see that the history and servicing industry is accurate. Is that fair?
16	Q. Would that be something you'd typically expect to find in a file from a predecessor servicer if there has been a judgment of divorce with a property settlement involving the loan?	19	A. Yes.
20	A. If there was one provided to the prior servicer, then it could reasonably be expected to be provided.	20	Q. Who does that review at CMS?
23	Q. Understood.	21	A. That would be individuals within our collateral department.
24	Other court orders involving loan could include litigation judgments; is that fair?	23	Q. Does a review like that take place with respect to every loan that CMS receives servicing rights to from the predecessor?
	Page 20		Page 21
1	A. To the best of my knowledge, yes.	1	the essential loan information correct so that it can do its job as servicer, correct?
2	Q. The standard practice is to do that type of review, right?	3	MS. LAPIN: Objection to form.
4	A. To the best of my knowledge.	4	THE WITNESS: Yes.
5	Q. Do you know what information -- as a matter of policy or procedure, do you know what information is reviewed by CMS?	5	BY MR. WESTBROOK:
8	MS. LAPIN: I'm just going to object to the form and just to the extent that you're delving into procedure or policy that could be deemed proprietary. That's all.	6	Q. Is there any document or documents or compilation of information or report that's created as a result of the loan file review that we just discussed?
12	You can still answer. Unless I direct you not to answer, you've got to answer.	10	MS. LAPIN: Same objection in terms of policy, procedure, proprietary information, but go ahead.
14	THE WITNESS: Would you mind repeating the question, please?	13	And also I would also -- form, just general procedure as opposed to this particular case, but you can definitely still answer.
16	BY MR. WESTBROOK:	14	THE WITNESS: I'm unsure.
17	Q. I'm interested to know as a matter of standard procedure what information CMS reviews when a loan file comes in from a predecessor servicer.	17	BY MR. WESTBROOK:
20	A. To my knowledge, they would review financial information, the balances, interest rates, escrow amounts, et cetera. And, again, to my knowledge, they would review documents from the document file.	18	Q. Do you know if any report of a loan review by CMS of the file that came from CitiMortgage in this instance was created?
25	Q. The goal of this review is to ensure that CMS has	21	MS. LAPIN: Same objection.
		22	THE WITNESS: I haven't seen the report, but I'm sure that it would have been some kind of a checks and balance report.
		25	BY MR. WESTBROOK:

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1	Q. Do you know if that's a document that would be included in CMS's electronic systems?	1	account any court orders when it input information regarding the Macholtz loan into its system?
2	A. I'm sure it would be, yes.	2	
3		3	
4	Q. Do you know what the title of that report would be?	4	A. I don't know.
5	A. No, I don't.	5	Q. If CMS determines that there's some kind of discrepancy between the documents that show up in a loan file it's receiving from a predecessor and the loan history that's come from the predecessor, what is done by CMS in that instance?
6		6	
7	Q. Is it fair to say that once CMS completed its loan review with respect to this Macholtz loan file that CMS input information, servicing information, into CMS's own servicing information?	7	
8		8	
9		9	
10		10	
11		11	MS. LAPIN: Just my same general objection regarding policy, procedure, to the extent it constitutes proprietary info, but definitely still answer.
12	A. Yes.	12	
13	Q. Information put into the servicing system would have to include all those parameters we talked about, right, the interest rate of the loan?	13	
14		14	
15		15	THE WITNESS: To my knowledge, any discrepancy would be brought up between CMS and whomever the prior servicer may be, and until the discrepancy was addressed, the loan would not be boarded into our system.
16	A. Yes.	16	
17	Q. The principal balance, right?	17	
18	A. Yes.	18	
19	Q. The delinquency, if there is one, right?	19	
20	A. Right.	20	BY MR. WESTBROOK:
21	MS. LAPIN: Just going to object to form.	21	Q. Do you know if any discrepancy was brought up by CMS with CitiMortgage with respect to the loan that's at issue in this case?
22		22	
23	BY MR. WESTBROOK:	23	
24	Q. Do you know if with respect to this loan file that's at issue in this case if CMS took into	24	A. I'm not aware of any discrepancy, but the loan obviously was boarded into our system.
25		25	
	Page 24		Page 25
1	Q. Are you aware of any modification of the Macholtz loan that's at issue in this case that took place in the year 2013?	1	Q. What I'm after is in the situation in which a modification agreement appears in the file that's coming over from a predecessor servicer to CMS, is that document something that the CMS reviewer reviewing the account that's coming in for servicing would take into account in determining whether there is a discrepancy between the information that's provided by the predecessor and what shows up in the documents in its file?
2		2	
3		3	
4	A. To the best of my knowledge, I'm aware of, I believe, a trial payment plan that was entered into.	4	
5		5	
6		6	
7	Q. If a loan modification agreement existed in a file of a predecessor servicer that came over from CMS or came over from CitiMortgage to CMS, is that something that the CMS reviewer or reviewers would take into account in determining whether the loan file is all consistent with the predecessor servicer's account history?	7	
8		8	
9		9	
10		10	
11		11	MS. LAPIN: Same objection as to form. You can answer if you ...
12		12	
13		13	
14		14	
15	MS. LAPIN: Just going to object to form. You can answer.	15	
16		16	
17	THE WITNESS: Again, would you mind repeating the question? I didn't quite catch --	17	
18		18	
19	MR. WESTBROOK: I may be able to rephrase it better.	19	
20		20	
21	THE WITNESS: Seemed like a lot of questions in one question.	21	
22		22	
23	MS. LAPIN: That's right. That's all. You're going to be able to answer the question.	23	
24		24	
25	Just let me make the objection.	25	
	BY MR. WESTBROOK:		MS. LAPIN: Let's say a loan file comes in to CMS from a predecessor like CitiMortgage and Citi Mortgage's account history shows the loan hasn't been modified, but then there's a modification agreement that comes through in the documents that seems to show that it has been modified.

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1	How would that scenario be treated by CMS?	1	A. To the best of my knowledge, yes.
2	MS. LAPIN: Just going to object.	2	Q. Do you know if CMS received information regarding
3	Form, foundation, calls for speculation.	3	the settlement of that lawsuit?
4	THE WITNESS: Again, to the best of my	4	A. I don't recall.
5	knowledge, any documents that are provided would	5	(Exhibit 3 marked.)
6	be imaged into our system.	6	BY MR. WESTBROOK:
7	But it seems to be potentially the same	7	Q. I've just handed you what we've marked Exhibit 3.
8	answer to the similar previous question that had	8	At the top in bold underlined, it says,
9	a loan actually been finally modified and terms	9	"Compromise Settlement and Release Agreement."
10	been established, then they would have been	10	Do you see that at the top of the first page
11	entered into CMS's system at the onboarding	11	there?
12	stage.	12	A. Yes, I do.
13	BY MR. WESTBROOK:	13	Q. Looks like five pages, signature page on page 5,
14	Q. Notwithstanding that the predecessor servicer	14	with a signature under the title, "CitiMortgage,
15	appeared not to recognize that modification?	15	Inc." Do you see that?
16	A. That would appear correct.	16	A. Yes, I do.
17	Q. You said you reviewed many documents prior to	17	Q. Is this a document that you've seen before?
18	today involving this loan file. Were you aware	18	A. Yes.
19	as a result of that review of a lawsuit regarding	19	Q. Do you know if CMS's files that came over from
20	this loan that was initiated back in 2011 by	20	CitiMortgage regarding this loan contained this
21	Mr. Macholtz and his wife against CitiMortgage?	21	document?
22	A. Yes.	22	A. I reviewed many documents and this does appear to
23	Q. Do you know if CMS received information about	23	be one of them. But, like I said, I reviewed
24	that lawsuit from CitiMortgage with the loan	24	hundreds of pages of documents.
25	file?	25	Q. You don't know whether this was a document that
	Page 28		Page 29
1	would have come over from CitiMortgage to CMS as	1	assumption, under subsection A entitled "Loan
2	part of the servicing transfer?	2	Modification," it says, "CMI has offered
3	A. It should have come across as part of the	3	plaintiff the loan modification agreement
4	servicing transfer.	4	attached hereto and incorporated herein as
5	Q. Do you know if anyone received this document when	5	Exhibit A. Plaintiff shall execute and supply
6	CMS became a servicer?	6	all documents necessary to effectuate the loan
7	A. To the best of my knowledge, it would have been	7	modification as detailed in the loan modification
8	reviewed as part of the onboarding process.	8	agreement." Do you see that?
9	Q. Under the recitals portion, which is the second	9	A. Yes, I do.
10	paragraph on the first page, it refers to the	10	Q. Fair to say this document seems to refer to a
11	prior lawsuit that I mentioned. It says,	11	loan modification that's to be entered into as
12	"Whereas there is pending in the United States	12	part of a settlement of the lawsuit, right?
13	District Court for the Western District of	13	MS. LAPIN: I'll just object on the
14	Michigan, remove to federal court from the	14	grounds that the document speaks for itself.
15	Berrien County Circuit Court, an action entitled	15	THE WITNESS: Yes, that's how it
16	'Anthony A. Macholtz versus CitiMortgage, Inc.,	16	appears.
17	Case No. 1:11-CV-01250-JTN.' Did I read that	17	BY MR. WESTBROOK:
18	correctly?	18	Q. You can tell looking at the first paragraph of
19	A. Yes.	19	the first document who the parties to the
20	Q. I'd like you to flip to the following page.	20	agreement are.
21	There is a section labeled, "To CMI's obligations	21	A. The first paragraph, if you don't mind, I'll read
22	and representations." Do you see that?	22	it just for verification. "This compromised
23	A. Yes.	23	settlement and release agreement, [agreement], is
24	Q. And I'll represent to you that CMI is initialism	24	entered into this 24th day of April, 2013. The
25	for CitiMortgage, Incorporated. With that	25	effective date by and between Anthony A.

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1	Macholtz, hereinafter referred to as plaintiff, 2 and CitiMortgage, Inc., including its affiliates 3 and subsidiaries hereafter referred to as CMI, 4 plaintiff, and CMI sometimes collectively 5 referred to herein as the parties. The parties 6 are executing this agreement with respect to the 7 following matters."	1	MS. LAPIN: That's the question? 2 MR. WESTBROOK: Yes. 3 THE WITNESS: To the best of my 4 knowledge, I'm not aware of any discussions. 5 BY MR. WESTBROOK:
8	Q. Yes, I agree that you've read that correctly. 9 Seems to indicate parties to this agreement are 10 Mr. Macholtz and CitiMortgage, Inc., right?	6	Q. Do you have a memory having reviewed many 7 documents of whether at the time that the 8 settlement is dated April 24 of 2013 whether 9 Anthony and Dena Macholtz were still married at 10 that time?
11	A. Yes.	11	A. I'm unaware. I know that -- well, to the best of 12 my knowledge, they were going through or had gone 13 through a divorce, but I don't know the date of 14 the divorce.
12	Q. Dena Macholtz isn't mentioned in that paragraph, 13 right?	15	Q. Understood. 16 (Exhibit 4 marked.)
14	A. That's correct. She's not mentioned.	17	BY MR. WESTBROOK:
15	Q. Are you aware of any communications -- I'm going 16 to leave aside the initial influx of information 17 from CitiMortgage to CMS regarding this loan, 18 that initial package. Aside from that, have 19 there been discussions or communications between 20 CMS and CitiMortgage regarding this lawsuit 21 that's referenced in Exhibit 3?	18	Q. Handing you what's been marked as Exhibit 4. At 19 the top of the page is a caption, "State of 20 Michigan Berrien County Trial Court Family 21 Division." Just below that, the names Dena Gail 22 Macholtz, plaintiff, versus Anthony A. Macholtz, 23 defendant. Do you see that?
22	A. I'm trying to refresh my memory.	24	A. Yes.
23	MS. LAPIN: The question, discussions 24 between CMS and CMI?	25	Q. And the title of the document says, "Judgment of
25	MR. WESTBROOK: Correct.		
	Page 32		Page 33
1	Divorce." Are you with me?	1	MR. WESTBROOK: He can tell me if he 2 doesn't know.
2	A. Yes.	3	MS. LAPIN: Yeah.
3	Q. Do you know if CMS's files reflected a divorce 4 judgment in a case where Dena Macholtz and 5 Anthony Macholtz were parties?	4	THE WITNESS: I'm unaware.
6	A. In my review of the document file, I cannot 7 remember coming across such a document.	5	BY MR. WESTBROOK:
8	MS. LAPIN: I'll just state for the 9 record, we produced this. This is our Bates 10 stamp.	6	Q. Do you know of any other source for a document 7 that would show up with that Bates stamp other 8 than CMS's files?
11	Whether you recall reviewing it is, 12 obviously, is another story.	9	A. No.
13	MR. WESTBROOK: Right. Maybe I'll just 14 clarify that too, because I think that's helpful.	10	Q. I'm sorry, you said you don't recall reviewing 11 this document?
15	BY MR. WESTBROOK:	12	A. That's correct.
16	Q. The Bates stamp on the bottom right-hand corner 17 of the document on this first page is marked 18 CMS/WILM00087, right?	13	Q. Does that mean you may have, but you don't recall 14 it as we sit here today?
19	A. Okay.	15	A. Yes.
20	Q. And is it your understanding that where documents 21 bear that Bates stamp prefix that they have come 22 from CMS's file?	16	Q. I'd like you to turn if you could to page 6 of 11 17 of the document that is Bates stamp 00092. At 18 the very top of that page is a paragraph that's 19 numbered 6.01, real property. Do you see that?
23	MS. LAPIN: I'm just going to state, 24 he's not going to, I think, necessarily know 25 that.	20	A. Yes.
		21	Q. It says, "The defendant, Anthony A. Macholtz, 22 shall have and hold as its own separate state 23 that certain real property located at 1886 24 Russell Road, Baroda, Michigan, 49101," and then 25 there's a more lengthy property description. Did

	Page 34		Page 35
1	I read that correctly?	1	"The plaintiff shall execute and deliver to the
2	A. Yes.	2	defendant coincident with the entry of this
3	Q. Now, that 1886 Russell Road property in Baroda is	3	judgment divorce a quitclaim deed for the above
4	the same property that's reflected on the	4	described property." Did I read that correctly?
5	mortgage that's at issue in this case, right?	5	A. Yes.
6	A. That's correct.	6	MR. WESTBROOK: You can set that aside
7	Q. Underneath that paragraph that we just finished	7	for now.
8	talking about, it says, "Further, the defendant,	8	(Exhibit 5 marked.)
9	Anthony A. Macholtz, shall pay any and all	9	BY MR. WESTBROOK:
10	indebtedness owing with respect to said real	10	Q. Handing you what I've just marked Exhibit 5.
11	estate and shall hold the plaintiff, Dena Gail	11	I'll represent to you that it looks to me like
12	Macholtz -- this is a typographical error -- but	12	it's a couple of separate documents together, the
13	Dena Gail Macholtz harmless from any and all such	13	first top sheet being one document that has a big
14	debts." Do you see that?	14	Dykema logo in the upper-left corner, right?
15	A. Yes.	15	A. Yes.
16	Q. This would then appear to reflect that Dena	16	Q. And then following that is one or two, it's hard
17	Macholtz was giving up the property, giving it to	17	to tell where there's a document split, documents
18	Anthony Macholtz in the judgment of divorce,	18	with a Citi logo, right?
19	right?	19	A. That's correct.
20	MS. LAPIN: Objection. Form,	20	Q. Have you had a chance to just flip through that
21	foundation, the document speaks for itself.	21	quickly?
22	THE WITNESS: That's how it would	22	A. Just looking through it right now.
23	appear.	23	Q. Okay. Do you know if you had a chance to review
24	BY MR. WESTBROOK:	24	these documents prior to today's deposition?
25	Q. In the final paragraph of that section, it says,	25	A. It appears to have been part of the documents
	Page 36		Page 37
1	that I reviewed.	1	are reflected in these documents to the servicing
2	Q. All right. Now, the first page that has the big	2	information that CitiMortgage provided to CMS?
3	Dykema logo on it, it's addressed to Angela	3	A. I'm sure the document itself would have been
4	Goggins, CitiMortgage, right?	4	reviewed and had the mortgage actually -- sorry,
5	A. Yes.	5	the modification taken place, it would have been
6	Q. Subject line, CitiMortgage v Macholtz. Says,	6	-- the terms would have been boarded into CMS's
7	"Dear Angela, Enclosed please find the original	7	system.
8	signed modification per your request. Please	8	Q. Is it your understanding that the terms of this
9	contact me if you have any questions."	9	document were not boarded into CMS's system?
10	Sincerely, and then has a signature, Dykema	10	A. To the best of my knowledge, they were not
11	Gossett, by Mark J. Magyar. Do you see that?	11	boarded into our system.
12	A. Yes.	12	Q. Looking at the page that's Bates marked
13	Q. It appears to reference an enclosure and then on	13	CMS/WILM01721. This appears to be addressed to
14	the subsequently Bates numbered pages looks like	14	Anthony A. Macholtz at the top, right?
15	there's something in the form of an agreement,	15	A. Yes.
16	right?	16	Q. I'm going to walk through some of the terms that
17	MS. LAPIN: Objection. Form,	17	are present in these documents. The first one
18	foundation, documents speak for themselves.	18	that I'm interested in is there are several steps
19	THE WITNESS: Yes.	19	that are listed on this page. There's Step 4.
20	BY MR. WESTBROOK:	20	It says your new total monthly payment, in
21	Q. Is it your understanding that CMS received this	21	parentheses, includes principal, interest, taxes,
22	document or these documents from CitiMortgage	22	and insurance, close paren, is \$1,747.59 and is
23	when CMS began servicing the Macholtz loan?	23	due on 2/1/2013, right?
24	A. To the best of my knowledge.	24	A. Yes.
25	Q. Do you know if CMS ever compared the terms that	25	Then two pages later, the number is 1723, is

	Page 38		Page 39
1	either a section of that document or a new	1	loan, right?
2	document, that is entitled, "Loan Modification	2	A. I'm unaware.
3	Agreement." Do you see that?	3	Q. All right. We'll get into a comparison of it I
4	A. Yes.	4	suppose later.
5	Q. It appears -- it says it is made -- this loan	5	Just to clarify what you testified to a
6	modification agreement made this 26th day of	6	moment ago, it's your understanding that someone
7	December, 2012, between Anthony A. Macholtz and	7	at CMS would have taken a look at this document
8	CitiMortgage, Inc., amends and supplements the	8	and compared it against the servicing information
9	mortgage date of trust for security deed and	9	that came in from CitiMortgage on this file?
10	timely payment rewards rider, if any, dated	10	MS. LAPIN: I'll object. Asked and
11	9/21/2005, right?	11	answered and form, but go ahead.
12	A. Yes.	12	THE WITNESS: I mean, to the best of my
13	Q. Under Section 1 underneath the section we were	13	knowledge, the document would have been reviewed,
14	just there at the top, the front matter, it says	14	and had the loan been modified, the modified
15	the new principal balance as of 01/01/13, the	15	information would have been put into our system.
16	amount payable under the note and security	16	BY MR. WESTBROOK:
17	instrument, in parentheses, the new principal	17	Q. And it's your understanding that any modified
18	balance is US \$194,401.23, consisting of the	18	information contained in this document was not
19	unpaid amount loan to borrower and lender, plus	19	put into CMS's system?
20	any other interest and other amounts capitalized.	20	A. To the best of my knowledge, yes.
21	Do you see that?	21	Q. Turning to the second to last page, it's numbered
22	A. Yes.	22	1728, looks like there are two signature lines,
23	Q. Now, that new principal balance reflects a	23	right?
24	different principal balance than what shows up in	24	A. Correct.
25	CMS's systems as the principal balance on the	25	Q. One for CitiMortgage, Inc., and one for Anthony
	Page 40		Page 41
1	A. Macholtz, right?	1	Q. Do you know how they came to that conclusion, how
2	A. That's correct.	2	CMS came to that conclusion?
3	Q. Appears to be a signature above Anthony A.	3	A. My understanding would be that this agreement
4	Macholtz, fair?	4	hasn't been signed by CitiMortgage and the
5	A. Yes.	5	final -- the terms and modifications were not
6	Q. Appears to be a blank above the CitiMortgage	6	transmitted to CMS as such.
7	signature line, fair?	7	Q. Do you have an understanding as to whether apart
8	A. Correct.	8	from the initial load of documents and servicing
9	Q. And no signature line on this page or the	9	information from CitiMortgage to CMS regarding
10	preceding page or the following page for Dena	10	this loan if there were any communications
11	Macholtz, right?	11	between CMS and CitiMortgage about the 2013
12	A. That's correct.	12	modification or proposed modification?
13	Q. We do see on the last page, there's a notary	13	MS. LAPIN: I thought it was asked and
14	line. It appears Mr. Macholtz's signature may	14	answered, but go ahead and answer.
15	have been notarized. Is that fair?	15	MR. WESTBROOK: I think I asked about
16	A. Yes.	16	the lawsuit before.
17	Q. Do you have an understanding as to why the terms	17	MS. LAPIN: Maybe that was the
18	reflected in these documents were not boarded	18	distinction.
19	into CMS's servicing system?	19	THE WITNESS: I'm unaware of any
20	A. To the best of my knowledge, the loan wasn't	20	communication.
21	modified by Citi prior to boarding into CMS.	21	MS. LAPIN: This one was just about a
22	Q. Your understanding then is CMS having reviewed	22	mod?
23	this determined that there wasn't a valid	23	MR. WESTBROOK: Right.
24	modification reflected by these documents?	24	BY MR. WESTBROOK:
25	A. To the best of my knowledge, that is the case.	25	Q. We just looked at the signature page on this, and

	Page 42		Page 43
1	I'll ask you to look back at it again. I	1	bottom of the page, it says, "Stipulated Order in
2	apologize. It's page 1728. We saw that there	2	Recordable Form Setting Aside Foreclosure Sale
3	appears to be no signature above the	3	and Rescinding Sheriff's Deed." Do you see that?
4	CitiMortgage, Inc., line, right?	4	A. Yes.
5	A. That's correct.	5	Q. Is it your understanding that this document would
6	Q. Have you seen any version of this document that	6	have come to CMS from CitiMortgage when CMS
7	shows a signature in that area?	7	became the servicer of the Macholtzs' loan?
8	A. Not to my recollection, no.	8	A. To the best of my knowledge, we would have
9	MS. LAPIN: For CitiMortgage?	9	received it as part of the transfer file.
10	MR. WESTBROOK: For CitiMortgage.	10	Q. I'll ask you to go to the following page. The
11	MS. LAPIN: I think you and I have had	11	last paragraph before the date and signature, it
12	many discussions about that. Off the record.	12	says, "It is further ordered that plaintiff,
13	(Discussion off the record.)	13	Anthony Macholtz, hereby reaffirms and restates
14	(Exhibit 6 marked.)	14	the terms and conditions on the original note and
15	BY MR. WESTBROOK:	15	mortgage executed on or about September 1, 2005,
16	Q. I'm handing you what's been marked Exhibit 6.	16	which mortgage was recorded on or around
17	This document has a whole bunch of recording	17	October 4, 2005, at the Berrien County Register
18	information and stamps at the top. I'll ask you	18	of Deeds at liber 2651, page 1406, except as
19	to just ignore those for the time being.	19	modified, pursuant to the parties' loan
20	But it bears the caption, "Anthony A.	20	modification agreement entered as of December 26,
21	Macholtz and Dena G. Macholtz, plaintiffs, versus	21	2012, and effective as of January 1, 2013, which
22	CitiMortgage, Inc., defendants." Do you see	22	is current, remains in full force and effect."
23	that?	23	Do you see that?
24	A. Yes.	24	A. Yes.
25	Q. The title of the document, which is close to the	25	Q. This appears to refer to the document we were
	Page 44		Page 45
1	just looking at, Exhibit 5; is that fair?	1	was in that paragraph that starts, "It is further
2	MS. LAPIN: Objection. Form,	2	ordered," the final full paragraph on the page
3	foundation.	3	Bates marked 297, you don't have any reason to
4	THE WITNESS: It does appear to refer	4	believe that the modification referred to in that
5	to that document.	5	paragraph is something other than the one we saw
6	BY MR. WESTBROOK:	6	in Exhibit 5, do you?
7	Q. It's the same date, so it says, "Entered	7	MS. LAPIN: Just going to object.
8	December 26, 2012, effective January 1, 2013."	8	Form, foundation.
9	That's consistent with what we saw in Exhibit 5,	9	THE WITNESS: It does appear to refer
10	right?	10	to Exhibit 5.
11	A. Yes.	11	(Exhibit 7 marked.)
12	Q. Given the existence of this court order, is it	12	BY MR. WESTBROOK:
13	your understanding that Exhibit 5, the	13	Q. Handing you what's been marked as Exhibit 7, and
14	modification reflected there, needed to be signed	14	I'll represent that it's two separate documents
15	by CitiMortgage to be effective?	15	that are together here. First being another
16	MS. LAPIN: I'm just going to object.	16	letter with the Dykema logo in the top left and
17	Form, foundation. I don't think he can speak to	17	then the next page appearing to be a check or
18	that because he doesn't --	18	payment instrument. Are you with me?
19	MR. WESTBROOK: If he doesn't know, he	19	A. Yes.
20	doesn't know.	20	Q. The first page which is the Dykema letter, it's
21	THE WITNESS: I don't know.	21	addressed to CitiMortgage, subject line, Anthony
22	BY MR. WESTBROOK:	22	Macholtz, and it says, "To Whom it May Concern,
23	Q. I think you testified hopefully about this	23	Enclosed please find the payment in the amount of
24	already so I don't want to belabor it, but just	24	\$5,242.77 from borrower, Anthony Macholtz, which
25	to be clear, when we talked about comparing what	25	constitute the amounts owed for February, March,

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1	and April under the enclosed loan modification 2 agreement. Please contact me if you have any 3 questions." Sincerely, and then it's signed 4 again Mark J. Magyar, Dykema Gossett, PLLC. Did 5 I read that correctly?	1	page would have been associated or is associated 2 with other documents? 3 And specifically I'm interested to know 4 whether there's a link or attachment between the 5 document like this and the things that it refers 6 to, the check, the modification agreement that 7 are referred to in the letter.
6	A. Yes.	8	MS. LAPIN: I'm just going to object to 9 form.
7	Q. The following page, which is not sequentially 8 Bates marked, the first page is 1843 and then the 9 next page is 1555. But the page marked 1555 does 10 seem to reflect the payment in the amount of 11 \$5,242.77; is that right?	10	MR. WESTBROOK: I'm hoping he can just 11 help me out on this.
12	A. Yes.	12	MS. LAPIN: I think I know what you're 13 saying, but what I think may not matter.
13	Q. In that payment instrument, which I think it's a 14 counter check from a bank, I'm not going to ask 15 you to testify to that, but it does say paid to 16 the order of CMI, right?	14	MR. WESTBROOK: Just walk through a 15 scenario. I can make it easier.
17	A. Yes.	16	MS. LAPIN: That's okay to --
18	Q. Do you know if these documents came through to 19 CMS from CitiMortgage as part of the initial 20 transfer of servicing?	17	MR. WESTBROOK: I think I can make it 18 easier.
21	A. To the best of my knowledge, they would have come 22 across with the transfer of file.	19	BY MR. WESTBROOK:
23	Q. Do you know if this document within CMS's file 24 system -- its system for keeping these loan 25 files, if this letter document that's the first	20	Q. Is there a means of pulling up a document like 21 this within CMS's system? Could you go on a CMS 22 computer or terminal and pull up this document?
	Page 48		Page 49
1	that are related to it?	1	wouldn't recall seeing a modification agreement 2 that's referred to in it?
2	A. Yes.	3	A. Possibly not.
3	Q. Is it links or attachments? What is it?	4	Q. I'm going to ask you to do a little arithmetic 5 here and bear with me. The amount \$5,242.77, it 6 says in this document that that reflects payments 7 for three months. You recall that. If we divide 8 up that amount \$5,242.77, do you know what number 9 that calculates out to?
4	MS. LAPIN: Same objection as I've 5 stated before. Just in terms of, like, policy, 6 procedure, proprietary information, but you can 7 testify.	10	A. Not without a calculator.
8	THE WITNESS: You know, it would be via 9 links, basically. It would click on a link and 10 pull up the documents.	11	Q. Would it seem correct that the amount of 12 \$5,242.77 divided by three comes to \$1,747.59? 13 That's the number I'm reading from Exhibit 5.
11	BY MR. WESTBROOK:	14	MS. LAPIN: I guess I'll object on the 15 grounds that math would speak for itself.
12	Q. Do you know if there were any documents linked to 13 this page we're looking at that's marked 1843?	16	THE WITNESS: It sounds approximately 17 correct.
14	A. I'm unaware.	18	MR. WESTBROOK: Attorneys aren't the 19 best at math, but technology is wonderful.
15	Q. Just for background, I'm not asking about this, 16 but I'm interested in the fact that it says, "The 17 enclosed loan modification agreement," where as 18 far as I can tell, the subsequent Bates numbers 19 don't show a loan modification agreement.	20	BY MR. WESTBROOK:
20	Let me ask you this question. You did 21 review this page prior to the deposition today?	21	Q. Do you have any reason to believe that the 22 payment that's referred to in Exhibit 7, that 23 \$5,242.77, wasn't made by Anthony Macholtz?
22	A. I don't recall seeing it.	24	A. I have no reason to believe that.
23	Q. All right. You may have, but you don't recall?	25	Q. Do you have any reason to believe CitiMortgage
24	A. Correct.		
25	Q. So I'm going to assume that means you also		

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1	didn't receive that payment?	1	Q. Of course.
2	A. No.	2	A. I'm sorry, would you mind repeating the question?
3	Q. Do you have any reason to believe that	3	Q. If the modification agreement were valid in
4	CitiMortgage did not process that payment and	4	Exhibit 5 and the first three months' payments
5	apply it to the loan account?	5	were made under that agreement for February,
6	A. No.	6	March, and April of 2013, the modified loan would
7	Q. Do you know if they did? Do you know if	7	have been current as of the beginning of May of
8	CitiMortgage did process the payment and apply it	8	2013, right?
9	to the loan account?	9	MS. LAPIN: Same objection. Form,
10	A. To the best of my knowledge, it was processed and	10	foundation, calls for speculation. It also could
11	applied.	11	call for a legal conclusion and assumes -- you
12	Q. Now, if the modification agreement that we looked	12	said --
13	at in Exhibit 5 were valid, I understand that	13	MR. WESTBROOK: You said your
14	it's CMS position that it wasn't, but if it were	14	objection.
15	valid and the first three months' payments were	15	THE WITNESS: To the best of my
16	made under the agreement for February, March, and	16	knowledge, that would be correct, provided any
17	April of 2013, then the modified loan would have	17	extraneous matters have been taken care of.
18	been current as of beginning of May of 2013,	18	MR. WESTBROOK: Understood.
19	right?	19	BY MR. WESTBROOK:
20	MS. LAPIN: Just going to object.	20	Q. Do you know if CitiMortgage treated the loan as
21	Form, foundation, calls for speculation. Could	21	current as of May 1st, 2013?
22	call for a legal conclusion as well.	22	A. I don't know.
23	THE WITNESS: Can I have a minute to	23	Q. As you sit here now, and we'll look into
24	refer back to the prior exhibit?	24	documents on this, but as you sit here now, do
25	BY MR. WESTBROOK:	25	you know if CMS's records show that the loan was
	Page 52		Page 53
1	current as of May 1st of 2014?	1	A. Yes.
2	A. Not to my knowledge.	2	Q. What is it?
3	Q. They don't show that?	3	A. This is the -- let's see. The servicing notation
4	A. As far as I can recall.	4	history of Carrington.
5	Q. During the time frame of the transfer of the	5	Q. This is a report or a print-off that comes from a
6	servicing to CMS from CitiMortgage on this loan,	6	CMS computerized system?
7	did CMS have any mechanism for changing the loan	7	A. Yes.
8	parameters provided by a predecessor servicer	8	Q. The servicing system?
9	that CMS discovered that the provided parameters	9	A. Correct.
10	were incorrect?	10	Q. Is there a name for the servicing software?
11	MS. LAPIN: Form, foundation. Also	11	MS. LAPIN: I'm just going to object on
12	policy, procedure. Possible proprietary	12	the proprietary, on that ground.
13	information.	13	THE WITNESS: Yes. It's known by
14	THE WITNESS: I don't know.	14	various names. Fiserve, Sagent.
15	(Exhibit 8 marked.)	15	BY MR. WESTBROOK:
16	BY MR. WESTBROOK:	16	Q. It's not something that was developed by CMS;
17	Q. I'm handing you Exhibit 8. Appears to be in the	17	it's a commercially available product?
18	form of a computer printout of some sort; is that	18	A. Yes.
19	fair?	19	Q. First page it's marked No. 28. Close to the top
20	A. Yes.	20	-- well, first we'll go through some of this
21	Q. Date at the top of March 12, 2019, top right	21	identification information.
22	there, right?	22	It has the names Anthony A. Macholtz
23	A. That's correct.	23	and Dena G. Macholtz, right?
24	Q. I assume this is a form of document that you're	24	A. Correct.
25	familiar with?	25	Q. It has an address underneath of 6140 28th Street,

	Page 54		Page 55
1	which I'll represent to you is my firm's address,	1	Q. Is the audit the same procedure that we discussed
2	but then next to it on the right-hand side under	2	earlier in the deposition of the process of CMS
3	property it has that 1886 Russell Road, Baroda,	3	reviewing a file coming over from a predecessor?
4	address, right?	4	A. To the best of my knowledge, yes.
5	A. That's correct.	5	Q. Do you know if CMS has a standard practice of
6	Q. Underneath that on the left, there's a column	6	creating an audit report as a result of its
7	labeled, "Dates," right?	7	initial review of a loan file that comes in from
8	A. Correct.	8	a predecessor servicer?
9	Q. Has a paid to date of August 1st of 2009, right?	9	MS. LAPIN: What was that question?
10	A. Yes.	10	MR. WESTBROOK: I'm talking about the
11	Q. That reflects that according to CMS's -- the	11	audit. There's an audit date there, and the
12	information in CMS's servicing system, that is	12	question is whether there was a standard practice
13	the date this loan was paid up to, right?	13	at CMS of generating an audit report in
14	A. Yes.	14	connection with receiving a file from a
15	Q. And then it says, "Next due. Apparently the	15	predecessor servicer.
16	following month, September 1st, 2009, right?	16	MS. LAPIN: I'll have my usual
17	A. That's correct.	17	objection for policy and procedure proprietary.
18	Q. It reflects a last payment date of November 22,	18	THE WITNESS: I would think the fact
19	2013; is that fair?	19	that an audit date has been generated would lead
20	A. Yes.	20	to an actual assumption that there are policies
21	Q. Then it says, "Audit DT, January 11, 2017,"	21	and procedures in place for that.
22	right?	22	BY MR. WESTBROOK:
23	A. Yes.	23	Q. Have you seen or do you remember having seen an
24	Q. I assume that means audit date?	24	audit report with respect to this Macholtz loan
25	A. That would be a fair assumption.	25	file?
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1	A. I don't remember seeing one, no.	1	A. Yes. It would be the actual Carrington account
2	Q. Have you seen audit reports with respect to any	2	number to be specific I would think.
3	other loan files?	3	Q. I'm not asking you to reveal what the precise
4	A. No.	4	information is on the stuff that's blacked out,
5	Q. So would you know what one looked like?	5	5 the rest of the information that's blacked out on
6	A. I would think with my experience if I saw one, I	6	6 the first page, but I'm interested to know what
7	would know by its contents what it would be.	7	7 type of information it is, if you know, or can
8	Q. What type of information would you expect to see	8	8 provide any insight on that.
9	on an audit report?	9	MS. LAPIN: Go off the record.
10	A. I would expect to see loan balances. Basically	10	(Discussion off the record.)
11	this information when the loan is paid, two	11	MS. LAPIN: Personal information, phone
12	previous payments, things like that, interest	12	numbers, somebody's name sometimes. If there was
13	rates.	13	something with counsel, that would have been
14	Q. And would you expect to find something like	14	stuff that I would have -- personal information
15	potential conflicts in the documents or red flags	15	more likely.
16	or anything along those lines in an audit report	16	THE WITNESS: Yeah.
17	if those conditions existed within the file?	17	BY MR. WESTBROOK:
18	A. I'm not sure. It would be speculation.	18	Q. I'm sorry, could you remind me what the name was
19	Q. Looks like there is some information on this	19	you used for this document?
20	first page that's blacked out. Some of it I can	20	A. This is the servicing notes history.
21	tell what it is. For example, upper right it	21	Q. Is it fair to say the servicing notes history,
22	says, "History for Account," and my assumption	22	you would expect servicing notes history to
23	would be the following information that's blacked	23	include things like communications between the
24	out would be the actual account number. Is that	24	borrower and CMS, right?
25	fair to say?	25	MS. LAPIN: Object. Form, foundation,

	Page 58		Page 59
1	calls for speculation.	1	Macholtz. Do you see that?
2	THE WITNESS: For the most part, yes.	2	A. Yes.
3	BY MR. WESTBROOK:	3	Q. Does IB stand for inbound telephone call?
4	Q. Have you reviewed this document before the	4	A. Typically, yes.
5	deposition today?	5	Q. What about TT, what does that mean?
6	A. Yes.	6	A. Talked to, typically.
7	Q. I'm going to stip a lot of this content, which	7	Q. I see. All right.
8	I'm sure will be a relief to everybody.	8	So the rest of that line is Dena G.
9	MS. LAPIN: I was going to say bummer;	9	Macholtz. Gave last four of SS. Add contact
10	it's so enticing.	10	info, not updated. C & D on file. Gave payoff
11	MR. WESTBROOK: I've had cases where	11	amount XER to SSD. She is following up on
12	I've had to go through just page after page.	12	RIEOCMO.
13	MS. LAPIN: Depends on what the issue	13	There's some codes or abbreviations
14	is. I have one, too, where there were calls	14	that I'm not familiar with there that I hope you
15	every single day for, like, two months about an	15	can help me with.
16	issue. And, yeah, I agree, it depends on the	16	C & D, what does that stand for?
17	issue.	17	MS. LAPIN: I'm just going to just
18	BY MR. WESTBROOK:	18	object with the understanding that it could --
19	Q. I would like you to turn to the page that's	19	you know, privilege proprietary information.
20	numbered 64. There are codes. I hope you can	20	MR. WESTBROOK: If it is.
21	tell me what it means. I'm looking close to the	21	BY MR. WESTBROOK:
22	middle of the page. On the left-hand column it	22	Q. What does C & D stand for?
23	says 083118 and then under the transaction amount	23	A. Typically, C & D stands for cease and desist.
24	it says T:00997 and then the beginning of the	24	Q. Then it says, "Gave payoff amount XER." Do you
25	line that I'm looking at says IBTT Dena G.	25	know what XER would refer to?
	Page 60		Page 61
1	A. Again, typically that would notate transfer.	1	Q. Do you know why Dena was still listed as a
2	Q. What about SSD?	2	borrower at CMS?
3	A. I don't know what SSD is.	3	A. No.
4	Q. Do you know if it's a department within CMS?	4	Q. Is there an indication or do you otherwise know
5	A. It would be a natural assumption, but I don't	5	why Dena Macholtz was allowed to speak to CMS
6	know.	6	about the loan?
7	Q. It says she is following up on RIEOCMO. Any	7	MS. LAPIN: Objection. Calls for
8	insights there?	8	speculation.
9	A. Do you mind if we just read forward and back in	9	THE WITNESS: No, I don't know.
10	the notes because that could indicate what SSD	10	BY MR. WESTBROOK:
11	means.	11	Q. Can you tell from this entry what information was
12	Q. Go ahead. If that may be helpful, please.	12	provided to Dena in connection with this contact?
13	A. My apologies for taking your time, but I can't	13	A. On the entry that we were just speaking where it
14	see at this point any indications as to what SSD	14	says, "Inbound, talked to Dena G. Macholtz," or
15	is, and I'm not about to hazard a guess.	15	are you referring to a different entry?
16	Q. Understood. Any insights on the RIEOCMO at the	16	Q. That entry, the one you have started reading
17	end of that line?	17	there.
18	A. RI typically would notate reinstatement. The	18	A. It looks like the information given would have
19	EOCMO, I don't know.	19	been the payoff amount.
20	Q. This entry seems to reflect that Dena Macholtz	20	Q. All right. Can you tell from this page if there
21	called CMS on the date August 31 of 2018, right?	21	were any changes made to the loan account as a
22	A. Yes.	22	result of that contact?
23	Q. That would be a little over five years after the	23	A. From the entirety of the notes within this page?
24	divorce from Anthony Macholtz, wouldn't it?	24	Q. Yes.
25	A. That's correct, yes.	25	A. I don't see any alterations to the account were

	Page 62		Page 63
1	made.	1	bottom of page 68 is different to the one at the
2	Q. All right.	2	top of page 69, so it would suggest this is a
3	A. From my review of this one page.	3	separate conversation.
4	Q. I'd like you to flip to the page that's numbered	4	Q. That's helpful.
5	68, please. I'm going to ask you to help me	5	Moving down a couple of lines, we're on
6	interpret the several entries that start with the	6	the page that's numbered 69. I'm looking at the
7	very bottom one on this page. Post date	7	line that starts, "IBC XFRD to me already
8	10/10/18. Transaction amount, column T,	8	verified." Do you see that?
9	column -- or colon 07534. Starts with	9	A. Yes.
10	IB-inbound, borrower intent, keep property. See	10	Q. Then it continues, "BWR 2 called in asking about
11	that, right?	11	FC sale date and TAD offered to XFR to assigned
12	A. The very last two lines?	12	rep and she declined." Do you see that?
13	Q. Yes.	13	A. Yes.
14	A. Yes.	14	Q. Am I right in assuming that this is discussing an
15	Q. The IB, is it your understanding that that would	15	inbound telephone call?
16	refer to an inbound telephone call?	16	A. That's how it would appear, yes.
17	A. That's my understanding, yes.	17	Q. And then XFRD would suggest to me that whoever is
18	Q. Now, the following page, can you tell if this is	18	making the notation is indicating that the call
19	a separate -- information about a separate	19	was transferred to him or her. Is that a fair
20	contact or if it's a continuation of that entry	20	assumption?
21	from the prior page?	21	A. Yes.
22	A. It would suggest that this is a separate item.	22	Q. It says, "Already verified." Does that refer to
23	The transaction amount, as it calls it, is	23	the identity of the caller having already been
24	actually what we call a teller number, which is	24	verified?
25	an employee I.D. number. And the one at the	25	A. Yes.
	Page 64		Page 65
1	Q. All right. BWR 2, is that short for borrower 2?	1	sometimes the rep who is taking the call will put
2	A. That's how we understand it or I would understand	2	their initials in the location, so it's probably
3	it, yes.	3	someone with the initial JDW in California. That
4	Q. The co-borrower?	4	would have been my assumption.
5	A. Yes.	5	Q. Do you know, have you made any effort to contact
6	Q. Do you know if the co-borrower on this account	6	anyone who spoke directly with the borrowers in
7	was Dena Macholtz?	7	this account?
8	A. To my knowledge, the co-borrower is Dena G.	8	A. No, I haven't.
9	Macholtz.	9	Q. Do you know if anyone else at CMS has done that
10	Q. Is there a notation indicating who made the note	10	in response to this lawsuit?
11	here?	11	A. I don't have any knowledge of that.
12	A. Who made the note, that's typically identified by	12	Q. If you could turn now to the page that's numbered
13	the T:05223. Like I said previously, that's	13	81. Here in the top of the page, there's an
14	identifiable as the teller number, which is an	14	entry that's dated January 29 of 2019 and then
15	employee I.D.	15	the teller code is 9863. Appears to be --
16	Q. All right. Another initialism that I'm sure we	16	following that, it looks like the date again,
17	can understand but I wanted you to verify, it	17	1/29/2019. Are you with me?
18	says, "BWR 2 called in asking about FC sale	18	A. Yes.
19	date." FC refers to foreclosure, right?	19	Q. It says, "Acct review regarding 2013 loan
20	A. Yes.	20	modification offer: The borrower and their
21	Q. Now, at the end of that entry it says, "Offered	21	counsel didn't perform and enter into the
22	to XFR to assign rep and she declined," and then	22	modification of 2013 as per the prior history
23	after that it says "-JDW-CA." Do you know what	23	notes. The borrower went through a divorce and
24	that entry, the "JDW-CA" means?	24	only he signed where the wife was supposed to
25	A. I cannot give you a definitive answer, but	25	sign too. The account was in litigation and the

Page 66		Page 67
1	borrower's counsel never provided the required	1 A. No.
2	divorce QCB, hence the 2013 mod was canceled,	2 Q. Can you tell what triggered the person making
3	period, BA. Did I read that correctly?	3 this entry to review this 2013 loan modification?
4 A.	Yes.	4 A. In my review of the many documents that have been
5 Q.	Says account review or acct review at the	5 presented to me before this hearing, I was made
6 beginning, right?		6 aware of a communication that included this
7 A.	Yes.	7 between CMS and foreclosure counsel at the time,
8 Q.	Does that refer to a process at CMS?	8 so this was probably made at or around the time
9	MS. LAPIN: Which one are you on?	9 of that communication.
10	Which one did you just say?	10 Q. All right. Do you have an understanding of what
11	THE WITNESS: Eighty-one.	11 the goal of the account review was?
12	MS. LAPIN: I know I'm on 81, but I	12 A. Purely from what is written, it would be to
13	guess I'm looking at the ...	13 review, for want of a better phrase, what went on
14	MR. WESTBROOK: The T number is 9863.	14 during the 2013 loan modification review.
15	MS. LAPIN: Oh, okay.	15 Q. Do you know what information was reviewed?
16	THE WITNESS: It's merely referring to	16 A. I can only speak to what we see here and what I
17	a review of the account which are the result of	17 recall being referred to within the other
18	various reasons that I'm not privy to.	18 communication, and that's the borrowers were due
19	BY MR. WESTBROOK:	19 to provide certain documents to complete the
20 Q.	Do you know if the person doing that review would	20 modification, which as far as I'm aware, they
21 have been the same person generating this entry?		21 never presented those to complete the
22 A.	Yes. I would expect it to be the same person who	22 modification.
23	typed the entry.	23 Q. Are you referring to communications between
24 Q.	Do you know what that person's job title would	24 CitiMortgage and the borrowers?
25	have been?	25 A. Yes. CitiMortgage and I believe the borrowers'
Page 68		Page 69
1	counsel at the time.	1 A. To an extent. I wouldn't say that I reviewed
2 Q.	Those are documents you've seen?	2 every single document, but I did give them a
3 A.	I've seen documents referring to that	3 cursory glance.
4	communication.	4 Q. Do you recall seeing anything in those notes
5 Q.	All right. Is that to say you haven't seen the	5 about borrower's counsel not providing required
6 communications themselves?		6 deed for the divorce?
7 A.	From memory, the document that I'm referring to	7 A. I don't remember.
8	contained an excerpt of notes from Citi's	8 Q. Do you know if CMS's file for the loan reflects
9	notation file at that time, which indicated the	9 or contains a quitclaim deed from Dena to Anthony
10	communication. I know it's kind of a long-winded	10 that was in CMS's file?
11	way of explaining.	11 A. I can't remember seeing one.
12 Q.	I appreciate that. Precision is the goal.	12 (Exhibit 9 marked.)
13	Maybe you know this and maybe you	13 BY MR. WESTBROOK:
14	don't, but I'll just ask you, looking at that	14 Q. This document is marked Exhibit 9. It's
15	same entry that we've been talking about, it says	15 actually, again, a series of documents, actually
16	the borrower and their counsel didn't perform and	16 a series of copies of the same document. There's
17	enter into the modification of 2013 as per the	17 five pages. I'll represent to you that they are
18	prior history notes. What I'm wondering is if	18 identical other than certain markings on them,
19	you have an understanding of what that phrase	19 markings and labels, but the title of it is
20	"prior history notes" refers to.	20 quitclaim deed. And there's a signature line in
21 A.	I would think that it is referring to the notes	21 the middle of the page that says "Dena Gail
22	from Citi.	22 Macholtz." Do you see that on the first page
23 Q.	Okay. Were the notes from CitiMortgage something	23 there?
24	that you reviewed in connection with preparation	24 A. Yes, I do.
25	for today's deposition?	25 Q. And each of these pages, these five pages, has a

	Page 70		Page 71
1	CMS/WILM Bates number on them, right?	1	the print date that's reflected on this document?
2	A. That's correct.	2	A. That's what I would understand, yes.
3	Q. You recall seeing a copy of this document during	3	Q. And the print date is March 12, 2019, right?
4	your review of documents in connection with this	4	A. Correct.
5	deposition?	5	Q. Assuming the 2013 modification reflect the terms
6	A. Yes.	6	reflected in Exhibit 5 that we talked about quite
7	Q. You do recall or you don't?	7	a bit before. Assuming that were valid, CMS's
8	A. Sorry. I don't recall actually seeing this	8	accounting for loan as of March 12 of 2019 would
9	document, no.	9	have been wrong, right?
10	Q. I'll just have you quickly flip back to the	10	MS. LAPIN: Objection. Form,
11	beginning of Exhibit No. 8, the servicing notes	11	foundation, calls for speculation, and I would
12	history.	12	say is against the facts in evidence but go ahead
13	I wanted to move over a column from	13	and answer.
14	where we were looking before. There's the dates	14	THE WITNESS: Would you mind repeating
15	column that we talked about and then there's the	15	the question?
16	current balances column. Do you see that?	16	BY MR. WESTBROOK:
17	A. Yes.	17	Q. If the Exhibit 5, the terms of that were part of
18	Q. And it shows a principal amount of \$135,314.46,	18	a valid modification agreement on this account,
19	right?	19	then CMS accounting for the loan would have been
20	A. Correct.	20	wrong as of March 12 of 2019, right?
21	Q. Then it looks like it shows an escrow deficiency	21	MS. LAPIN: Same objection.
22	of \$58,149.53. Did I read that right?	22	THE WITNESS: Obviously, doing the
23	A. Yes.	23	calculation accurately, the amount due appear to
24	Q. Does that reflect what CMS's servicing notes or	24	differ by a small amount. I don't have an
25	servicing system showed for those amounts as of	25	explanation for that. It could have been within
	Page 72		Page 73
1	that six-year period from the modification	1	Q. Let's approach it this way. A principal balance
2	agreement if you want to say and March of 2019	2	doesn't go down unless you make payments on the
3	there may have been some adjustments within the	3	loan, right?
4	loan itself that would have caused that	4	A. That's my understanding, yes.
5	difference.	5	Q. And escrow deficiency may go up as you don't make
6	Q. I understand. I'm interested to know. So we've	6	payments on the loan if there are escrows
7	got a principal balance on Exhibit 8 showing of	7	required to be paid to the servicer, right?
8	\$135,314 and change, right?	8	A. Yes.
9	A. Yes.	9	Q. The document, the servicing notes history, does
10	Q. We have a principal balance or a new principal	10	that document payments going out and coming in?
11	balance reflected on Exhibit 5 on page 1723 of	11	A. I'm just looking through to see the contents of
12	\$194,401.23, right?	12	the exhibit. Typically, inbound and outbound
13	A. 19440123.	13	payments are separately recorded in the
14	Q. Right. So if only a small amount of payments	14	transaction history. If, say, escrow payments,
15	were made between 2013, beginning of 2013, and	15	tax insurance, et cetera, would possibly have
16	March of 2019, you wouldn't expect the principal	16	been notated in this, but the actual financial
17	balance to have gone down to \$135,314.43, right?	17	records would be in the transaction history.
18	MS. LAPIN: Based on the assumption	18	Q. The transaction history, that's a document that
19	that the loan modification was valid? That's	19	you've also reviewed in connection with your
20	what you're asking?	20	preparation for this deposition, I assume?
21	MR. WESTBROOK: Yes.	21	A. Yes.
22	MS. LAPIN: Yeah. Which, again, I	22	Q. Do you recall if looking at the CMS transaction
23	think his testimony was it wasn't, but -- so	23	history if there's ever a time where the escrow
24	that's why I think the question is speculative.	24	deficiency was nonexistent and that the escrow
25	BY MR. WESTBROOK:	25	account was at zero or some positive number?

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1 A.	I don't recall.	1 Q.	Appears the call was about a payoff, right?
2 Q.	I'd like you to go ahead and turn to -- we're still in Exhibit 8, but the page that is numbered 84.	2 A.	Yes.
5	Very near the middle of the page dated February 28, 2019, and then the T number there is 5341. Are you with me there?	3 Q.	Do you know if Anthony Macholtz asked CMS for a redemption amount during that call?
8 A.	Yes.	4 A.	All I can refer to is actual notation within the line item which merely says that he asked for payoff amount.
9 Q.	It looks like there might be a phone number there that's blacked out. See I.D. Maybe caller I.D.?	5 Q.	Doesn't look like there's another notation following this what appears to be a transfer to someone else, right?
11 A.	Yes.	6 Q.	Your question was again, sir?
12 Q.	It says Anthony A. Macholtz, a few other notations. It says, "BORG 1 called to ask what PO AMT WLD B if wanted to pay off loan." Am I correct in interpreting that to mean borrower 1 called to ask what payoff amount would be if wanted to pay off the loan? PO would be payoff?	7 Q.	I haven't seen and I'm wondering if you can confirm that there isn't a notation that reflects what happened after the transfer that's reflected here. It says, "Trans to SSD for further help. Do you see any other notation here or on the following pages that would reflect what was discussed after the transfer?"
18 A.	That's my assumption, yes.	8 Q.	Yeah. Obviously, referring to 022819, teller number 05341. Within that notation it says transfer to SSD, that I already established I'm not quite sure what that abbreviation is for further help.
19 Q.	And then it says, "Trans to SSD for further help." Do you see that?	9 A.	And then on page 85, if you go down kind of a fourth of the way down, teller I.D.
21 A.	Yes.	10 A.	
22 Q.	It looks from this note like CMS fielded a phone call from Anthony Macholtz on February 28 of 2019, right?	11 A.	
25 A.	Correct.	12 A.	
	Page 76		Page 77
1	7503. In fact, that is the same person. No, sorry. SSD for further help.	1 A.	Not a clue.
3	Teller 7503 is the notated inbound call, borrower, intent not available. Within that notation it has a transfer call to this new representative from the board.	2 Q.	Is that something you could find out if you had access to CMS systems?
7 Q.	I see. I see. I see what you're looking at here on page 85.	3 A.	Yes.
9	About a quarter of the way down there, I'm looking at language that says, "Ordered payoff per customer's req, request, to be e-mailed to him. Would like to know amount needed to redeem. Asked if there were W/O options available. Advised only redemption since already went to FCL sale, right?	4 Q.	Do you know if CMS told Anthony Macholtz what the redemption amount of the property was during that call?
16 A.	Yes.	5 A.	There's no indication as to an amount being disclosed within that conversation.
17 Q.	And then it says MPP TX 44439. Do you see that?	6 Q.	Have you heard a recording of that phone call?
18 A.	Yes.	7 A.	Yes.
19 Q.	Do you have any idea what the MPPTX stands for?	8 Q.	Was that provided to you by your counsel?
20 A.	I have no clue.	9 A.	Yes.
21 Q.	Could it be someone with the initials MPP in Texas?	10 Q.	All right. Had you heard it prior to being provided to you by your counsel?
23 A.	Very possibly, but I don't know.	11 A.	No.
24 Q.	As you sit here today, you don't know who that person is that made that note?	12 Q.	Did you hear in the recording a person stating that the redemption amount be the same as the payoff amount?
25		13 A.	I don't recall.
		14 Q.	Do you know what the payoff amount would have been at this time that February 28th of 2019?
		15 A.	No. It was mentioned within the call that it would be -- the borrower requested it be e-mailed to him, so it's not something that we'd be privy

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1	to immediately, because there's different amounts	1	Q. And then after that it says -N. Do you know what
2	involved, attorney fees and stuff.	2	means?
3	Q. Do you know if a payoff was e-mailed to him by	3	A. No.
4	CMS?	4	Q. I'm sure you're aware that prior to February of
5	A. On page 86 about halfway down, there's a notation	5	2019, which was the date of this entry, CMS
6	3/7/19, teller number 09540, and it's a redacted	6	caused a foreclosure sale to take place with
7	e-mail to TonyM@redactedAnthonyAMacholtz. I	7	respect to the Macholtz property, right?
8	would assume that that would have been the payoff	8	A. Yes.
9	e-mail being sent to the borrower.	9	Q. Do you know what CMS bid at the sheriff sale of
10	Q. All right. Looks like there's some codes that	10	this property?
11	are on the following couple lines 035 done	11	A. No. I don't recall.
12	March 7, 2019, by GLR9540. Do you know if that	12	(Exhibit 10 marked.)
13	number 035 reflects some kind of standard form	13	BY MR. WESTBROOK:
14	that's used by CMS or something else?	14	Q. Handing you a document that's marked Exhibit 10.
15	A. It would. I don't know what the individual code	15	This looks to be on letterhead of Schneiderman &
16	is, but I would refer to something.	16	Sherman law firm. Do you see that?
17	Q. Like a document or form or something like that?	17	A. Yes.
18	A. I'm not entirely sure.	18	Q. And at the top it looks like it's entitled,
19	Q. Do you know -- it says TSK TYP. Maybe task type?	19	"Notice of Sale and Pending Foreclosure." Are
20	A. Yes.	20	you with me?
21	Q. And then 173-P0Q request, do you know what that	21	A. Yes.
22	means?	22	Q. Dated August 9 of 2018, right?
23	A. I don't know the individual task number 173.	23	A. Yes.
24	PLQ, I would assume, means payoff quote, but I	24	Q. And addressed apparently to Anthony A. Macholtz
25	don't know.	25	and Dena G. Macholtz, right?
	Page 80		Page 81
1	A. That's correct.	1	page number 338, it reflects that at the time of
2	Q. Again, in the subject line it refers to the	2	the notice, August 2018, CMS claimed that the
3	property that's at issue, 1886 Russell Road,	3	debt amount owed was \$278,457.17. Is that right?
4	Baroda, Michigan, right?	4	A. Yes, that's what was within the notice.
5	A. Yes.	5	Q. Now, a few months later, February 28 of 2019,
6	Q. The language there on the letter says, "In	6	would the payoff amount for the loan be
7	accordance with the provisions of the mortgage,	7	\$278,457.17 or something more than that?
8	we have enclosed a copy of the notice of sale	8	MS. LAPIN: Objection. Form,
9	publication on the above-captioned property,"	9	foundation, calls for speculation.
10	right?	10	BY MR. WESTBROOK:
11	A. Yes.	11	Q. Assuming no payments have been made?
12	Q. And then it appears that the enclosure that goes	12	A. I'm sorry, I was just reading the notice.
13	with that letter is the following page entitled,	13	MS. LAPIN: If you can't speak to the
14	"Short Foreclosure Notice, Berrien County." Is	14	notice, that's fine.
15	that fair?	15	THE WITNESS: I can't speak to the
16	A. That's fair.	16	notice. I don't know.
17	Q. Is this a document or have you reviewed these	17	BY MR. WESTBROOK:
18	documents before?	18	Q. What I'm trying to understand is what the payoff
19	A. Yes.	19	amount -- what the neighborhood of the payoff
20	Q. Now, as of the date of the letter, the enclosure	20	amount would have been in February of 2019.
21	letter, August 9, 2018, CMS had authorized the	21	MS. LAPIN: If he knows.
22	Schneiderman law firm to conduct a foreclosure	22	THE WITNESS: I don't know.
23	sale of 1886 Russell Road, right?	23	BY MR. WESTBROOK:
24	A. To the best of my knowledge, yes.	24	Q. Is that something that you could roughly estimate
25	Q. And in the notice itself that is reflected on	25	using the information that's shown on Exhibit 8,

	Page 82		Page 83
1	which is dated March 12 of 2019?	1	MS. LAPIN: Form, foundation, calls for
2	A. No.	2	speculation.
3	Q. Adding up the principal balance that's reflected,	3	THE WITNESS: Can you repeat the
4	plus the escrow deficiency, plus fees, would you	4	question?
5	expect that to get you close to payoff amount as	5	BY MR. WESTBROOK:
6	of the date of this print-off?	6	Q. We know with certainty that the payoff amount
7	MS. LAPIN: Same objection.	7	would have to include the principal escrow
8	THE WITNESS: I don't know. It would	8	deficiency and fees, right?
9	be speculation. I don't know.	9	A. Correct.
10	BY MR. WESTBROOK:	10	Q. Wouldn't be less than the total of those things?
11	Q. What other amounts would be included in the	11	A. No.
12	payoff amount besides the principal balance,	12	(Exhibit 11 marked.)
13	escrow deficiency? Well, I suppose there's	13	BY MR. WESTBROOK:
14	interest in there too, but we could calculate	14	Q. Handing you what I've marked as Exhibit 11.
15	that, couldn't we?	15	This, again, appears to be on the Schneiderman &
16	A. Typically, it would be principal, interest, tax	16	Sherman law firm letterhead, dated October 9,
17	and insurance which would be within the escrow,	17	2019. Do you see that?
18	attorney's fees, other associated costs. So I	18	A. Yes.
19	couldn't even guess at what it would be.	19	Q. Do you know if these -- the following pages are
20	Q. But certainly the payoff amount would not be less	20	pages that you reviewed in connection with your
21	than the total of the principal, escrow	21	preparation for the deposition today?
22	deficiency, and fees?	22	A. Yes, I did.
23	MS. LAPIN: I'm going to object.	23	Q. Can you characterize what they are, what they
24	BY MR. WESTBROOK:	24	relate to?
25	Q. Right?	25	A. These are publication notices from Schneider &
	Page 84		Page 85
1	Sherman memorializing the foreclosure sale by	1	that \$150,000 bid at the sheriff sale?
2	publication of the subject property.	2	MS. LAPIN: I'm just going to object,
3	Q. All right. On the first page there, this looks	3	because that document doesn't address the sheriff
4	like it's a communication to the Berrien County	4	sale.
5	Sheriff's office from Schneiderman & Sherman,	5	MR. WESTBROOK: I'm just asking if he
6	right?	6	knows. If he doesn't know, we can move on.
7	A. Yes.	7	THE WITNESS: I don't know.
8	Q. And if we didn't cover this before, I want to	8	BY MR. WESTBROOK:
9	make sure it's clear. Schneiderman & Sherman was	9	Q. Do you recall reviewing the sheriff deed that was
10	the law office engaged by CMS to conduct the	10	generated on October 11, 2018?
11	foreclosure on the Macholtzs' property, right?	11	A. The one contained within Exhibit 11?
12	A. That's my knowledge.	12	Q. No. I don't think that one is executed, is it?
13	Q. It says in the body, Enclosed please find a sale	13	MS. LAPIN: Right, it's not.
14	package for Thursday, October 11, 2018, for the	14	BY MR. WESTBROOK:
15	above-referenced matter. Please contact Anna	15	Q. I can make the representation to you, though,
16	Graham at Detroit Legal News, provides a phone	16	that there is an executed version of this
17	number, should a third party bid at the sale, and	17	document. With that assumption in mind, that
18	then it says the opening bid amount is \$150,000,	18	would seem to confirm that the bid of \$150,000
19	right?	19	was made, right?
20	A. Correct.	20	A. Yes.
21	Q. That indicates that the bid amount authorized by	21	Q. I'm not leading you astray on this. That's what
22	CMS was less than what CMS claimed the indebted	22	it was.
23	to be, right?	23	So your counsel has just shown you an
24	A. Yes.	24	executed version of that sheriff's deed, right?
25	Q. Do you know if the Schneiderman law firm placed	25	A. Correct.

	Page 86		Page 87
1	Q. Reflecting the \$150,000 successful bid, right?	1	as the payoff amount for the loan?
2	A. Yes.	2	MS. LAPIN: Asked and answered. Same
3	Q. And that's refreshed your memory that that bid	3	objection.
4	was made and ultimately was successful, right?	4	MR. WESTBROOK: I haven't asked that
5	A. Yes.	5	question before.
6	Q. If the successful bid of the sheriff sale was	6	MS. LAPIN: I thought you did.
7	\$150,000 on October 11, 2018, the redemption	7	THE WITNESS: Can you repeat the
8	amount would not be \$278,457.17, would it?	8	question?
9	MS. LAPIN: Can I ask, form,	9	MR. WESTBROOK: Let me rephrase.
10	foundation, calls for speculation. That would	10	BY MR. WESTBROOK:
11	involve you having to do calculations right now?	11	Q. Do you know if it was correct as of February of
12	THE WITNESS: I don't know.	12	2019 that the redemption amount for the property
13	BY MR. WESTBROOK:	13	was the same as the payoff amount with the loan?
14	Q. Is it your understanding that the redemption	14	A. I don't know.
15	amount would be the successful bid amount	15	(Exhibit 12 marked.)
16	\$150,000, plus interest and maybe a small amount,	16	BY MR. WESTBROOK:
17	three figures, of costs, right?	17	Q. I've just handed you what we marked Exhibit 12.
18	MS. LAPIN: I'm just going to object.	18	It's a letter that's bears the date of June 15,
19	MR. WESTBROOK: I'm asking what his	19	2018. Is that right?
20	understanding is.	20	A. Yes.
21	MS. LAPIN: Yeah. Yeah.	21	Q. Appears to be addressed to Carrington Mortgage
22	THE WITNESS: I don't know.	22	Services, LLC, right?
23	BY MR. WESTBROOK:	23	A. Yes.
24	Q. Do you know if as of February of 2018 the	24	MS. LAPIN: Guys, can we go off record
25	redemption amount for the property was the same	25	one second?
	Page 88		Page 89
1	(Off the record.)	1	preview. There's another document where CMS
2	BY MR. WESTBROOK:	2	acknowledges receipt of it. So I'll just ask you
3	Q. So when we broke, we had just started looking at	3	to assume it was received for the time being.
4	this document Exhibit 12?	4	Now, as of the date of the letter, June
5	A. Yes.	5	15, 2018, CMS was servicing Anthony Macholtz's
6	Q. What I wanted to ask you was the address -- so	6	loan, right?
7	there's an address block at the top Carrington	7	A. Yes.
8	Mortgage Services, obviously, but then the	8	Q. Now, there's some front matter that talks about
9	address is a P. O. box, P. O. Box 5001,	9	the mortgage that's at issue, but what I want to
10	Westfield, Indiana 46074. Do you see that?	10	talk about is underneath that there's a heading,
11	A. Yes.	11	"Request for Information." Do you see that?
12	Q. Do you know if that's the correct address for	12	A. Yes.
13	borrowers to send requests for information to	13	Q. It starts, "My client hereby requests the
14	CMS?	14	following servicing information regarding the
15	A. Yes. To my knowledge, that is the correct	15	loan," and then there's a list of ten types of
16	address.	16	items, right?
17	Q. Do you know if CMS received this letter?	17	A. Correct.
18	A. I don't know. I would assume so. It seems to be	18	Q. I want to focus in on just a few of those. No. 3
19	correctly addressed, but I don't know.	19	it says, "Copies of all statements regarding the
20	MS. LAPIN: If you don't know, you	20	loan from its inception to date." Do you see
21	don't know.	21	that?
22	THE WITNESS: I don't know.	22	A. Yes.
23	MS. LAPIN: Don't assume.	23	Q. Then No. 4, Copies of all servicing notes
24	BY MR. WESTBROOK:	24	regarding the loan from its inception to the
25	Q. We'll see another document. I'll just give you a	25	date." Do you see that?

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1	A. Yes.	1	MR. WESTBROOK: I want to clarify.
2	Q. No. 6 says complete account history for the loan showing dates and amounts of payments, credits, debits, fees, and principal and interest amounts.	2	BY MR. WESTBROOK:
3		3	Q. Does CMS have procedures in place for responding to written requests by borrowers for servicing information about their loans?
4		4	MS. LAPIN: Same objection.
5	Did I read that correctly?	5	THE WITNESS: Yes.
6	A. Yes.	6	BY MR. WESTBROOK:
7	Q. Then on to No. 9 on the following page, it says, "Copies of any and all documents evidencing assignments of indebtedness, mortgage rights, servicing rights, or any other rights with respect to the loan from its inception to date."	7	Q. Do those procedures discuss whether borrowers are entitled to receive past statements on their loan accounts?
8		8	MS. LAPIN: Same objection.
9		9	THE WITNESS: I don't know.
10		10	BY MR. WESTBROOK:
11		11	Q. Do you know if those procedures discuss whether borrowers are entitled to receive servicing notes with respect to their loan?
12	Do you see that?	12	MS. LAPIN: The first one you said was loan statements? That was your first one?
13	A. Yes.	13	MR. WESTBROOK: Yes.
14	Q. I'm going to sort of back up. Does CMS have procedures in place for responding to borrower requests for information?	14	BY MR. WESTBROOK:
15		15	Q. By loan statement, I'm referring to periodic loan statements that you didn't expect to receive on a monthly basis. Does that change your answer at all regarding procedures?
16		16	MS. LAPIN: Same objection.
17	MS. LAPIN: Same objection. Just general objection for form, foundation, for perhaps seeking proprietary information regarding policies and procedures.	17	THE WITNESS: I'm not aware of such a policy and procedure.
18		18	MS. LAPIN: I'm sorry, Ted. You asked are you aware of a policy that tells them not to provide something?
19		19	MR. WESTBROOK: That was the last question, yes.
20		20	MS. LAPIN: Correct. And what was that item or the issue?
21	MR. WESTBROOK: I want to clarify the question too and I'm sure you'll say same objection.	21	MR. WESTBROOK: Periodic statements.
22		22	BY MR. WESTBROOK:
23	MS. LAPIN: I'll say same objection, but go ahead.	23	Q. Are you aware during that same time frame June July 2018 of any CMS standard practice of not providing servicing notes to borrowers who request them in writing?
24		24	MS. LAPIN: Same objection.
25		25	THE WITNESS: I'm not aware of that.
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1	A. I would think that a borrower could expect to receive monthly statements upon request.	1	CMS had a standard practice of not providing past statements to borrowers who request them in writing?
2		2	MS. LAPIN: Same objection.
3	Q. All right. But do you know if CMS's procedures talk about that specifically?	3	THE WITNESS: I'm not aware of such a policy and procedure.
4		4	MS. LAPIN: I'm sorry, Ted. You asked are you aware of a policy that tells them not to provide something?
5	A. I don't know.	5	MR. WESTBROOK: That was the last question, yes.
6	Q. Do you know if CMS's procedures for responding to borrower, written borrower requests for information, discuss whether borrowers are entitled to receive servicing assignment notices?	6	MS. LAPIN: Correct. And what was that item or the issue?
7		7	MR. WESTBROOK: Periodic statements.
8		8	BY MR. WESTBROOK:
9		9	Q. Are you aware during that same time frame June July 2018 of any CMS standard practice of not providing servicing notes to borrowers who request them in writing?
10	A. I don't know.	10	MS. LAPIN: Same objection.
11	Q. Have you seen any written documents that call themselves a policy or procedure regarding responding to borrower written requests for information?	11	THE WITNESS: I'm not aware of that.
12		12	BY MR. WESTBROOK:
13		13	Q. Do you know if CMS responded to the letter represented in Exhibit 12?
14		14	A. No, I don't know.

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1 (Exhibit 13 marked.)	2 BY MR. WESTBROOK:	1 Q. Now, I'd ask you to just briefly flip through it
3 Q. I'm handing you what I just marked Exhibit 13,	2 to gain an understanding of the types of	2 information that's attached to the letter.
4 the first page at least reflects Carrington's	3 You've briefly had a chance to familiarize	3 yourself with the document, right?
5 letterhead, right?	4 A. Yes.	5
6 A. Yes.	6 Q. Is it fair to characterize this set of	6
7 Q. And this document looks like it's dated	7 information here as a letter from Carrington	7
8 July 25th, 2018, right?	8 followed by what seems to be documents associated	8
9 A. Correct.	9 with the property?	9
10 Q. And dated to my office Westbrook Law, PLLC,	10 A. Yes.	10
11 right?	11 Q. Do you have any reason to disagree with me that	11
12 A. Yes.	12 this contains CMS's response to the Exhibit 12	12
13 Q. Concerning the property that's at issue in the	13 request for information?	13
14 case, 1886 Russell Road, Baroda, Michigan, right?	14 A. I agree.	14
15 A. Yes.	15 MS. LAPIN: I'm just going to say,	15
16 Q. Is this a document you've reviewed before?	16 though, I don't think it's the one that --	16
17 A. Yes. You just actually refreshed my memory. I	17 without going with a fine-tooth comb, I know	17
18 did see this in response to this letter.	18 that -- I'm not sure if -- I know I attached one	18
19 Q. I thought it might.	19 to my motion for judgment on the pleadings. I'm	19
20 A. Seeing that many documents, they all become a	20 not sure if it's the exact same version.	20
21 blur.	21 MR. WESTBROOK: Then that's fine. I'll	21
22 Q. Would you agree with me that this document seems	22 represent though --	22
23 to be a response by CMS to the letter reflected	23 MS. LAPIN: I just double-checked it.	23
24 in Exhibit 12?	24 It looks like it's close enough.	24
25 A. Yes, I do.		
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1 BY MR. WESTBROOK:	1 Q. right?	1
2 Q. So, obviously, I don't expect you to know whether	2 A. Yes.	2
3 there are, you know, a missing page here and	3 Q. And I think you had discussed this form of	3
4 there. I'm asking more generally about the	4 document before when we were talking about the	4
5 document, if it appears to be, you know, the set	5 servicing notes that are reflected in Exhibit A,	5
6 of information that was given by CMS in response	6 right?	6
7 to Exhibit 12.	7 But what we're looking at inside of	7
8 A. Right.	8 Exhibit 13 is it bears some similarity in how it	8
9 Q. Now, as you flipped through there, and feel free	9 looks to Exhibit 8, but it's actually a different	9
10 to flip through it as much as you need to or want	10 type of document, right?	10
11 to, but as you flip through there, did you see in	11 A. Correct.	11
12 this stack of documents any periodic account	12 Q. And so what type of information is reflected in	12
13 statements?	13 this page that we're looking at within Exhibit	13
14 A. What I'm seeing, I'm not seeing any actual	14 13?	14
15 accounting statements.	15 A. This would be financial transactions.	15
16 Q. In that stack that's Exhibit 13, is any part of	16 Q. And just summarizing what this appears to show in	16
17 the servicing notes history included?	17 the columns, appears to be some disbursements	17
18 A. I didn't see it.	18 maybe for taxes and/or insurance. Is that fair?	18
19 Q. All right. Did you see any servicing notes or	19 A. Yes.	19
20 collection notes?	20 Q. And appears maybe some charges as well for small	20
21 A. I didn't see any service nor collection notes.	21 amounts, several \$15 charges, a few \$20 charges,	21
22 There is a copy of the transaction history.	22 right?	22
23 Q. Right. And I wish I would have numbered these	23 A. Yes.	23
24 pages now, but I think you and I are looking at	24 Q. Do you know if those represent inspection fees?	24
25 the same page there. It's dated July 26 of 2018,	25 A. Typically, yeah, from my experience, an	25

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1	inspection fee is around that amount.	1	not in the stack either and it's somewhere else.
2	MS. LAPIN: But just to be clear,	2	MS. LAPIN: That's fine. Or maybe it's
3	you're not -- for this particular situation,	3	in a later one, something like that.
4	that's all.	4	MR. WESTBROOK: It very well could be.
5	MR. WESTBROOK: Right. We don't need	5	THE WITNESS: No, I'm not seeing that.
6	to get into great detail on it. I'm just trying	6	BY MR. WESTBROOK:
7	to confirm what I understand.	7	Q. CMS does maintain that it sent Anthony Macholtz a
8	MS. LAPIN: That's definitely	8	notice of servicing change-back in January of
9	understood.	9	2017, right?
10	BY MR. WESTBROOK:	10	A. I don't know.
11	Q. Did you see within this stack that's Exhibit 13	11	Q. Do you recall reviewing any notices of servicing
12	any notice of a servicing transfer to CMS? Just	12	transfer with respect to this loan?
13	to be clear, I think there may be a document	13	A. Possibly. There are that many documents. I
14	purporting to be one from CitiMortgage in here.	14	can't recall whether I saw this document.
15	My question, though, I'm going to limit	15	Q. That's fair.
16	it now, is there such a document notice of	16	Is it fair to say that CMS
17	servicing transfer from CMS in this stack?	17	intentionally did not provide periodic account
18	MS. LAPIN: In this stack, right.	18	statements, servicing notes, and notices of
19	MR. WESTBROOK: In this stack. My	19	servicing transfer in response to the request for
20	understanding is there isn't one in this stack	20	information at Exhibit 12?
21	just so you know where I'm coming from.	21	MS. LAPIN: Objection. Form,
22	THE WITNESS: That's my understanding	22	foundation, calls for speculation.
23	too.	23	THE WITNESS: I have no reason to
24	MS. LAPIN: Take your time.	24	believe that Carrington would have withheld
25	MR. WESTBROOK: It's possible that's	25	information.
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1	BY MR. WESTBROOK:	1	too, I think you're almost seeking a legal
2	Q. Let's look at the second page of Exhibit 13. I'm	2	conclusion as well, because I think the
3	looking at the first page. It says, "With regard	3	interpretation and the contents of these letters
4	to your request for protected documents,	4	are going to be governed by statute.
5	Carrington states that documents requested, if	5	MR. WESTBROOK: Okay.
6	they exist, may be proprietary, confidential,	6	BY MR. WESTBROOK:
7	and/or otherwise protected from disclosure and	7	Q. Let me ask it this way. Did it seem from the
8	dissemination. Therefore, we are unable to	8	language used in the paragraph that I've read
9	provide you with copies of collection notes,	9	that CMS decided not to produce certain documents
10	collection records, communication files, or any	10	that were requested?
11	other form of recorded data between CMS and the	11	MS. LAPIN: Same -- yeah, same. Form
12	borrower, copies of servicing agreements,	12	and foundation and with that word "decided."
13	contracts, property inspections, invoices, and	13	THE WITNESS: I don't know.
14	procedural manuals, et cetera." Do you see that?	14	BY MR. WESTBROOK:
15	A. Yes.	15	Q. Do you have an understanding of what makes
16	Q. Is there any other way to interpret that	16	periodic account statements protected documents
17	communication from CMS then that they are	17	as they are described here?
18	refusing to provide periodic statements,	18	A. No.
19	collection notes, and so forth?	19	Q. Are account statements considered confidential or
20	MS. LAPIN: I just object. Form,	20	proprietary to CMS?
21	foundation, and the other thing is too, I'll just	21	MS. LAPIN: Form, foundation, calls for
22	say because --	22	speculation.
23	MR. WESTBROOK: I want him to answer	23	THE WITNESS: Can you repeat the
24	the question.	24	question, please?
25	MS. LAPIN: I was just going to say,	25	BY MR. WESTBROOK:

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1 Q. Are periodic account statements considered confidential or proprietary within CMS?		1 MS. LAPIN: Objection. Form and foundation. Documents will speak for themselves.
2	3	2 THE WITNESS: Not fully understanding
3 MS. LAPIN: I'm also going to object	4	4 the question.
4 that I don't know that the failure to have	5	5 BY MR. WESTBROOK:
5 periodic statements is specifically referenced in	6 Q. Did you review any of the CitiMortgage periodic	6
6 that paragraph. My objection is the letter	7 statements regarding this loan?	7
7 speaks for itself.	8 A. Yes.	8
8 THE WITNESS: I don't know.	9 Q. Do you know if they had Mr. Macholtz's name on	9
9 BY MR. WESTBROOK:	10 them?	10
10 Q. Do you know if CMS ever sent periodic statements	11 A. Yes.	11
11 regarding the loan to Mr. Macholtz until -- or	12 Q. Do you know if they had an address, a mailing	12
12 prior to June of 2018? Sorry, that was clumsy.	13 address for him?	13
13 Let me ask it again.	14 A. Yes.	14
14 Do you know if CMS ever sent periodic	15 Q. Do you know of any reason why it would be	15
15 loan statements to Anthony Macholtz before June	16 problematic for CMS to provide those CitiMortgage	16
16 of 2018, so before they were requested in the	17 periodic statements upon his written request for	17
17 letter?	18 them?	18
18 A. I don't know.	19 A. I don't know.	19
19 Q. Did CMS's file for the loan have in it	20 MS. LAPIN: Same objection.	20
20 CitiMortgage statements, periodic CitiMortgage	21 BY MR. WESTBROOK:	21
21 statements?	22 Q. Do you know of any reason why servicing notes,	22
22 A. To my knowledge, yes.	23 like the servicing notes history document we	23
23 Q. Those statements, the CitiMortgage statements to	24 looked at in Exhibit 8, would be considered	24
24 Mr. Macholtz, would have indicated that they had	25 protected documents by CMS?	25
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1 MS. LAPIN: Same objection.		1 Exhibit 12?
2 THE WITNESS: I don't know.		2 A. I'm not aware.
3 BY MR. WESTBROOK:		3 (Exhibit 14 marked.)
4 Q. Do you know if in response to Exhibit 12 if any		4 BY MR. WESTBROOK:
5 research was done within CMS regarding whether		5 Q. I'm handing you what I just marked Exhibit 14,
6 the requested documents were confidential and		6 which, again, it's on my firm's letterhead and
7 proprietary?		7 bears the date of April 24, 2018. Do you see
8 A. I don't know.		8 that?
9 Q. Do you know of any policy or procedure in place		9 A. Yes.
10 at CMS to do research regarding whether documents		10 Q. Appears to reflect the same mailing address that
11 requested by borrowers in writing are		11 we saw on Exhibit 12, right? Carrington Mortgage
12 confidential and proprietary?		12 Services, P.O. Box 5001, Westfield, Indiana,
13 MS. LAPIN: Same objection.		13 46074, right?
14 THE WITNESS: I'm not aware.		14 A. Correct.
15 BY MR. WESTBROOK:		15 Q. Is this a document that you had a chance to
16 Q. Do you know if in response to Exhibit 12 if there		16 review prior to your deposition today?
17 was any attempt made within CMS to locate or		17 A. Yes.
18 review account statements for the loan?		18 Q. Do you have an understanding what this is?
19 A. I don't know.		19 A. Do you mind if I refresh my memory by reading it?
20 Q. Do you know if in response to Exhibit 12 an		20 Q. Please do.
21 attempt was made within CMS to note the servicing		21 A. Yes.
22 note?		22 Q. What's your understanding of what the document
23 A. I don't know.		23 is?
24 Q. Apart from what you see here in Exhibit 13, are		24 A. This is a document on Westbrook Law on behalf of
25 you aware of any other responses by CMS to		25 Anthony Macholtz. Identify what the alleged

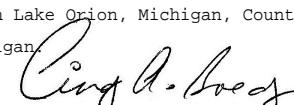
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1 notice of error regarding a breach letter from 2 what I can understand.	1 Schneiderman letterhead, right? 2 MS. LAPIN: Then there was just the 3 bidding, so I think it's just what, Exhibit 10? 4 MR. WESTBROOK: We'll move on, but I'll 5 make it more general. I'll make it more general 6 and this will be easier.
3 Q. Now, the letter talks briefly at the bottom of 4 the top page that you see there. It talks about 5 a communication August 19, 2018, posting, 6 foreclosure posting. Do you see that? It's the 7 beginning of the bottom paragraph.	7 BY MR. WESTBROOK:
8 A. Yes.	8 Q. Is it your understanding that the Schneiderman 9 letterhead on CMS's behalf did do a foreclosure 10 posting regarding the property?
9 Q. And that's a true statement, isn't it? I'll read 10 it for you. 11 "On or about August 19, 2018, 12 Carrington, through its attorneys, Schneiderman & 13 Sherman, posted to Mr. Macholtz's property a 14 foreclosure notice specifying a sheriff sale date 15 of September 6, 2018."	11 A. Yes. 12 Q. Above that sentence we just read and talked 13 about, there's discussion of an alleged 14 requirement and mortgage for some kind of notice. 15 Is that a fair characterization?
16 MS. LAPIN: I'm just going to object on 17 the characterization of a true statement. Form 18 and foundation. He didn't write the letter, so 19 ... 20 BY MR. WESTBROOK: 21 Q. Do you have any reason to dispute that that's 22 true, that sentence?	16 A. Yes. 17 Q. Now, I understand CMS doesn't think it violated 18 any provision of the mortgage. Fair to say?
23 A. I don't know. I didn't play any part in this. 24 Q. Right, but, you know, we've looked at documents 25 earlier. The document dated August 19 on	19 A. Yes. 20 Q. Is it CMS's position that CMS provided 30 days' 21 written notice an opportunity to cure prior to 22 initiating foreclosure with respect to this home? 23 MS. LAPIN: I am just going to say 24 there are pleadings, yes, speak for themselves on 25 that point.
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1 THE WITNESS: That is Carrington's 2 business practice. 3 BY MR. WESTBROOK: 4 Q. Have you seen a notice CMS sent to Mr. Macholtz 5 of a right to cure that's dated at least 30 days 6 prior to initiating foreclosure?	1 you're here. And I'd just say that as a prelude 2 to this question, which is, do you recall seeing 3 a notice drafted by CMS of a right-to-cure 4 default on the mortgage loan that's dated at 5 least 30 days prior to the initiation of 6 foreclosure?
7 A. I may have seen one in my review of the 8 documents, but there were that many documents, so 9 I can't recall whether I saw that individual 10 document. 11 Q. If you have seen such a document, would it have 12 been on Carrington letterhead, on CMS letterhead? 13 MS. LAPIN: I'm just going to object. 14 I know it's hard because he -- there have been 15 pleadings filed in this case including the 16 dispositive motion, which addresses these issues, 17 so I'm just going to say that regardless of 18 possibly his knowledge, I think Carrington's 19 position on that particular issue and supporting 20 documents have been made part of the record. 21 That's all I can say. 22 BY MR. WESTBROOK: 23 Q. We're here to try and get CMS's knowledge on 24 these things to the extent that it's reasonably 25 possible for you to know them, which is why	7 A. Again, I reviewed that many documents. I don't 8 recall whether I saw the document to which you're 9 referring. 10 Q. Do you know if CMS sent a notice to Mr. Macholtz 11 of a right to cure after initiating foreclosure 12 process? 13 MS. LAPIN: Same objection. 14 THE WITNESS: Same answer. I saw that 15 many documents. I'm not aware of whether I saw 16 or didn't see such a document. 17 BY MR. WESTBROOK: 18 Q. I'm just trying to get us on the same page on 19 dates with this question. 20 Exhibit 10 we looked at. That's one of 21 the Schneiderman documents. It says, "Notice of 22 sale and pending foreclosure." It's dated 23 August 9 of 2018. Are you with me so far? 24 A. Yes. 25 Q. So would you agree with me that we can tell the

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1	foreclosure process had begun by August 9, 2018?	1	then past all the disclosures, the very next page
2	MS. LAPIN: I'll just -- only objection	2	has in bold letters near the top the words,
3	is the document speaks for itself.	3	"Account Reinstatement Notification." Do you see
4	THE WITNESS: Yes.	4	that?
5	(Exhibit 15 marked.)	5	A. I do.
6	BY MR. WESTBROOK:	6	Q. There's a date at the very -- near the very top,
7	Q. I'm handing you what has been marked as	7	it says, "Notice date, 10/9/18." Do you see
8	Exhibit 15. Have you had a chance to glance what	8	that?
9	the Exhibit 15 contains?	9	A. Yes.
10	A. Yes.	10	Q. And reading just the beginning of the body, it
11	Q. All right. And it's fair to say that the top	11	says, "Carrington Mortgage Services, LLC,
12	document, the first few pages seems to be a	12	prepared this notification based on the request
13	letter on Carrington letterhead dated October 8	13	made by you or on your behalf to reinstate your
14	of 2018?	14	loan and cure the delinquent and outstanding
15	A. Correct.	15	balances owed under your current note. You must
16	Q. I'm going to read the first line of the body. It	16	remit total payment of \$166,920.97." Do you see
17	says, "This letter is in response to a written	17	that?
18	inquiry received in our office on August 27,	18	A. Yes.
19	2018." Did I read that right?	19	Q. Is it consistent with your understanding that
20	A. Yes.	20	this notification document was included with the
21	Q. Does it appear to you that Exhibit 15, at least	21	letter that forms the first few pages of Exhibit
22	the letter is, was sent by CMS in response to	22	15?
23	Exhibit 14?	23	A. Yes, to my knowledge.
24	A. Yes.	24	Q. Do you know if this document was transmitted
25	Q. If you would flip past the body of the letter and	25	directly or indirectly to Mr. Macholtz?
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1	A. It bears the address of 6140 28th Street, which	1	him if this was included in it? Because when you
2	is Westbrook Law's address.	2	look at the second paragraph from the bottom, the
3	Q. Right, his counsel?	3	reinstatement, I thought, was submitted
4	A. Yes.	4	differently. That was my understanding.
5	MS. LAPIN: The guy you're talking to	5	MR. WESTBROOK: I think it will be
6	right now.	6	cleared up when I ask him about the next
7	THE WITNESS: Exactly.	7	document, but I'll just --
8	MR. WESTBROOK: Correct. I'm not	8	MS. LAPIN: That's fine.
9	trying to trip you up on that.	9	MR. WESTBROOK: It was included in what
10	BY MR. WESTBROOK:	10	I received, yes. There's a separate one too.
11	Q. Do you know if this was or if it would have been	11	BY MR. WESTBROOK:
12	transmitted by mail or by some other means?	12	Q. Moving on from that account reinstatement
13	A. Typically by mail.	13	notification, seems to be a two-page document
14	Q. Do you know what date it was mailed on?	14	with some disclosures them after it, and then a
15	A. I would say on or about October 8, 2018.	15	document on CitiMortgage letterhead, right?
16	Q. I see that date on the first page of Exhibit 15,	16	A. Yes.
17	but then on the account reinstatement	17	Q. And then flipping a couple of additional pages,
18	notification portion it has a date of October 9	18	there's now another document that has a
19	of 2018.	19	Carrington logo on the upper right. It's
20	A. Correct.	20	entitled, "Request for Mortgage Assistance."
21	Q. Do you know if the notice date reflects the date	21	A. Right, yes.
22	that it was created?	22	Q. All right. And a request for mortgage assistance
23	A. That would have been my understanding.	23	packet is referenced in the letter, and that's
24	MS. LAPIN: Can I just clarify one	24	the top page of Exhibit 15. It says, "Lastly, a
25	thing? I just wanted to be clear. Did you ask	25	request for mortgage assistance, RMA, packet is

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1	enclosed per your request, right?	1	Q. Are you aware of a uniform policy within CMS of
2	A. Yes.	2	rejecting requests for mortgage assistance
3	Q. So is it your understanding then that the package	3	applications if CMS receives them less than 37
4	that starts with this header "Request for	4	days before a foreclosure sale?
5	Mortgage Assistance" is that same thing that's	5	MS. LAPIN: Objection. Form,
6	referred to in the letter?	6	foundation, calls for speculation, possibly
7	A. Yes.	7	proprietary information. I think it seeks a
8	Q. As a general matter, a request for mortgage	8	legal conclusion too based on federal statute.
9	assistance is a document through which a borrower	9	THE WITNESS: I don't know.
10	may be able to request a loan modification from	10	BY MR. WESTBROOK:
11	CMS, right?	11	Q. Do you recall from either reviewing the documents
12	A. Or the mortgage assistance as deemed applicable.	12	before the deposition or from the exhibits that
13	It's not always a modification.	13	we've looked at today that the sheriff sale for
14	Q. I see. There are other ways that mortgage	14	the Macholtzs' property was held on October 11 of
15	assistance could potentially be provided, right?	15	2018?
16	A. Yes.	16	MS. LAPIN: I'm sorry, Ted, can you
17	Q. Do you have an understanding of why this request	17	repeat that again?
18	for mortgage assistance package or application	18	MR. WESTBROOK: I'm asking for
19	was included with this response by CMS?	19	confirmation if the sheriff sale was October 11
20	A. Yeah, it was requested on page 2 of Exhibit 14.	20	of 2018.
21	Q. Do you have an understanding of whether CMS	21	MS. LAPIN: I don't want -- if you need
22	intended to evaluate any requests for mortgage	22	to see the sheriff deed, I'll show it to you if
23	assistance application from Anthony Macholtz as	23	you need that. I don't know if you have that
24	of this date October 8 or 9 of 2018?	24	date committed to memory.
25	A. I don't know.	25	THE WITNESS: Can I see the sheriff's
	Page 116		Page 117
1	deed?	1	A. Yes.
2	MR. WESTBROOK: If you have it handy,	2	Q. Now, the following page numbered 74, the fourth
3	that would be terrific.	3	entry down, it's dated November 19, 2018, T
4	THE WITNESS: October 11 is correct.	4	number 3553. Looking at the entry that says,
5	BY MR. WESTBROOK:	5	"Docs sent to 2L for denial due to FCL sale held
6	Q. And that's consistent with what's stated on the	6	10/11/18."
7	account reinstatement notification which says	7	A. Yes.
8	your property has a scheduled foreclosure sale on	8	Q. Do you know what 2L stands for?
9	10/11/2018.	9	A. It's my understanding that 2L stands for, like, a
10	A. Correct.	10	second look, like a second look at the documents.
11	Q. I'll ask you to quickly turn to Exhibit 8, which	11	Q. An FCL sale would mean foreclosure sale, right?
12	is the servicing notes history. The specific	12	A. Yes.
13	page I'd like you to flip to is numbered 74.	13	Q. And consistent with what you just told me, second
14	Just by way of background, are you	14	look, another couple of entries down, T number
15	aware of whether Mr. Macholtz sent in a completed	15	7623, it says, "Second look review completed.
16	request for mortgage assistance?	16	Verified. FC sale held. Date in tempo,
17	A. I'm not aware.	17	10/11/18. Sale held. Property is with the sale.
18	Q. I'd ask you then to turn back one page to the one	18	Package denied and doc send to imaging. Is that
19	that's numbered 73. The bottom of the page is	19	right? Did I read it right?
20	dated November 16, 2018. The T number 8042,	20	A. Yes.
21	there's a notation there in the notes, "New	21	Q. So did that indicate to you when you look at it
22	hardship package received." Do you see that?	22	that some other person besides T 3553 reviewed
23	A. Yes.	23	the package?
24	Q. Is that consistent with the borrower having	24	A. Yes.
25	submitted a request for mortgage assistance?	25	Q. The next line down, it says, "IM closed.

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1	Intake-foreclosure sale within 37 days," right?	1	package once it was submitted, how would you find that out?
2	A. Yes.	2	MS. LAPIN: I'm just going to object because -- on the form of the question. I think the way you're asking it is you're assuming that no one intended to review it.
3	Q. Do you know what that means?	3	MR. WESTBROOK: That's the question I'm asking.
4	A. Literally, I would understand it to be what it says. Lost mitigation closed.	4	BY MR. WESTBROOK:
5	6 Intake-foreclosure sale within 37 days.	5	Q. If you want to find out whether that was the case or not, how would you find out?
7	7 Q. Does that indicate the reason for the denial of the lost mitigation application?	6	12 A. I would reach out to a supervisor in our underwriting department.
8	9 A. That's how I understand it.	13	(Exhibit 16 marked.)
10	10 Q. Do you know if at the time that CMS sent a request for mortgage assistance application to Mr. Macholtz through his attorney whether CMS intended to review the application once he submitted it to them?	14	15 BY MR. WESTBROOK:
11	15 A. I don't know.	16	16 Q. Handing you what's been marked Exhibit 16. The first page of Exhibit 16 is a fax cover sheet.
12	16 Q. Is there any other person who would know the answer to that question at CMS?	17	18 It references my law firm, and I'll represent to you that the fax number there is the fax number that goes to my law firm's fax machine. But I'd like you to look at the following page. It's entitled, "Payoff Statement," right?
13	18 A. Possibly someone within our underwriting department.	19	20 A. Yes.
14	20 Q. Any particular person that you know of?	21	21 Q. Dated October 9, 2018, right?
15	21 A. No one that I can bring to mind.	22	22 A. Yes. Dated October 9, 2018.
16	22 Q. Any particular job title that you know of?	23	
17	23 A. No.	24	
18	24 Q. If you were trying to find an answer to that question whether anyone intended to review the	25	
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1	1 Q. Is this a document that you had a chance to review prior to the deposition today?	1	of documents, so forth, in preparation for today's deposition?
2	3 A. May well have been a document I reviewed, but the documents were so numerous, I can't recall this individual document.	2	3 A. I can't recall.
3	6 Q. What's the payoff amount that's reflected in the document?	4	4 Q. I think you testified before that you weren't personally involved in finding documents to produce in connection with written discovery in the case, correct?
4	8 A. The total amount to pay the loan in full was \$284,597.40.	5	5 A. That's correct.
5	10 Q. Do you have any reason to dispute that this is a payoff statement that CMS prepared and sent to Mr. Macholtz's counsel?	6	6 Q. Do you know who at CMS did have involvement in that?
6	13 A. No.	7	7 A. No.
7	14 Q. Now, are you aware that there were some written discovery activity in the case in this particular lawsuit?	8	8 (Exhibit 17 marked.)
8	17 A. Could you elaborate?	9	9 BY MR. WESTBROOK:
9	18 Q. There were requests for documents and those sorts of things back and forth between the parties?	10	10 Q. I'm handing you what I marked as Exhibit 17. Exhibit 17 has the case caption for the present lawsuit and is entitled, "Defendants' Supplemental Responses to Plaintiff's Request for Admission." Do you see that?
10	20 A. Within the exhibits that have already been presented?	11	11 A. Yes.
11	22 Q. Not within the exhibits, within the lawsuit.	12	12 Q. Did you take any part in formulating CMS's response represented by this Exhibit 17?
12	23 A. I'm not too sure.	13	13 A. No.
13	24 Q. Did you review any discovery instruments like requests for admission, requests for production	14	14 Q. With that understanding, I'm going to ask you about the supplement response that's on page 4 of the document. It's under the heading,
14		15	

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1	"Supplemental Response," and it says, "Admit that	1 A. I don't know.
2	at least one piece of correspondence you	2 Q. Do you know if anyone at CMS attempted to
3	attempted to mail to plaintiff at P.O. Box 287,	3 investigate which pieces of mail may have been
4	Baroda, Michigan, 49101-0287, was returned to you	4 returned to CMS undeliverable?
5	undeliverable." Did I read that correctly?	5 A. I don't know.
6	A. Yes.	6 Q. If you were trying to investigate and discover
7	Q. And then under the answer portion admit or deny,	7 whether certain documents were returned to CMS
8	it says, "Defendants cannot admit or deny the	8 undeliverable, what would you do?
9	allegations. CMS's records indicate that mail	9 A. I'd look into our document system of records to
10	was returned as undeliverable on June 28, 2017;	10 see if there's any indication of mail being
11	July 13, 2017; and July 31, 2017." Do you see	11 returned to us and also check the notation
12	that?	12 system.
13	A. Yes.	13 Q. The notation system, would that be in the form of
14	Q. Have you reviewed any records at any time within	14 Exhibit 8?
15	CMS that indicate that mail sent by CMS to	15 A. Looks like it, yes.
16	Mr. Macholtz was returned to CMS undelivered?	16 Q. Do you know if a notation would ordinarily be
17	A. I'm trying to recall. I can't remember.	17 placed into the servicing notes history if mail
18	Honestly can't remember.	18 were returned to CMS undeliverable to reach a
19	MS. LAPIN: Whether you saw this or	19 certain account?
20	not?	20 A. To the best of my knowledge, yes.
21	THE WITNESS: Yes.	21 Q. Is there any other system that you would look in
22	BY MR. WESTBROOK:	22 aside from the one reflected at Exhibit 8?
23	Q. Do you have an understanding of whether CMS's	23 A. Let's go back to Exhibit 8 and refresh what that
24	records do indicate that mail was returned to CMS	24 exhibit is. Yeah, I'd also look in our imaging
25	undeliverable?	25 system to see if there is any image of the
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1	returned mail.	1 letters, and I just want to be clear, you're not
2	Q. All right. I'm trying to picture what the	2 saying that Carrington didn't send servicing
3	imaging system looks like when you're at a	3 transfer letters. You're just, as we sit here
4	terminal. Is this in a form of a database with	4 today, not aware of them being sent?
5	links?	5 A. Correct.
6	A. Yes.	6 Q. The same thing with the mortgage default letter.
7	Q. Would the imaging system for return mail include	7 You're not saying that a letter wasn't sent to
8	an image of the returned item itself?	8 Mr. Macholtz prior to the foreclosure involving
9	A. Potentially, yes.	9 -- informing him of the default under the
10	Q. But as far as your knowledge of any return mail	10 mortgage and the right to reinstate. You're just
11	in this instance relating to the Macholtzs' loan,	11 saying you don't recall those letters?
12	you haven't seen those documents?	12 A. That's also correct.
13	A. I don't recall seeing them. There may have been	13 Q. So if I represent that those letters exist, you
14	within the documents that I reviewed, but I don't	14 wouldn't dispute that they -- their existence?
15	recall seeing them.	15 A. No, I wouldn't.
16	MR. WESTBROOK: I may be done. Let's	16 Q. The other question I want to ask is counsel asked
17	go off the record for just a minute. I'll look	17 you about research being done to respond to these
18	at my notes.	18 letters to determine if things were, I guess,
19	(Off the record.)	19 researched for confidentiality and proprietary
20	MR. WESTBROOK: I don't have anything	20 purposes and you said you didn't know if that had
21	further.	21 been done. I just want to be clear. You just
22	EXAMINATION	22 don't have any personal knowledge of that.
23	BY MS. LAPIN:	23 You're not saying it wasn't done?
24	Q. Mr. Dewhurst, I just have two quick questions.	24 A. That's also correct.
25	You were asked about servicing transfer	25 Q. Just going one step further. If people at

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1	Carrington are responding to requests for	1 COURT REPORTER: Do you want a hard
2	information, would you agree they are going to	2 copy or just electronic?
3	investigate and --	3 MR. WESTBROOK: Just electronic.
4	MR. WESTBROOK: I'm going to object to	4 COURT REPORTER: Deb, copy of the
5	the form as leading.	5 transcript for you?
6	BY MS. LAPIN:	6 MS. LAPIN: Yes, just as cheaply as
7	Q. They are going to research a file before they	7 possible.
8	respond to the letter, correct?	8 (Deposition concluded at 2:11 p.m.)
9	A. The fact that the receiver issued a request for	9 - - -
10	information would cause them to research the file	10
11	and provide information that they are able to	11
12	provide.	12
13	Q. And if they have -- if they deem something to be	13
14	confidential or proprietary, it's not unusual or	14
15	unwarranted for them to put that in the response,	15
16	correct?	16
17	MR. WESTBROOK: Same objection.	17
18	THE WITNESS: Correct.	18
19	MS. LAPIN: All right. I think that's	19
20	it.	20
21	MR. WESTBROOK: I don't have anything	21
22	further.	22
23	COURT REPORTER: Do you want to order	23
24	the transcript?	24
25	MR. WESTBROOK: Yes.	25
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